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MEAT PACKER

HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS

FIRST SESSION

ON

H. R. 14, by Mr. Haugen
H. R. 232, by Mr. Anderson
H. R. 5034, by Mr. McLaughlin (Nebr.)
H. R. 5692, by Mr. Williams

MAY, 1921

Series D

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COMMITTEE ON AGRICULTURE.

HOUSE OF REPRESENTATIVES.

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MEAT PACKER.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Monday, May 2, 1921.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. Purnell, Mr. Voigt, Mr. McLaughlin, of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Clague, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. The committee has been called together this morning to give consideration to packer legislation.

What arrangement can we make as to division of time and who shall control the time? Who will take charge of the time in opposition to the legislation?

Mr. LIGHTFOOT. We are perfectly willing to leave that, Mr. Chairman, to the selection of the committee, or if you desire, some of the counsel for the packers are here and they might take charge of that, if there is no one on the committee who desires to do so.

The CHAIRMAN. Can an arrangement be made between the packers, traders, commission men, and others affected?

Mr. LIGHTFOOT. I think so. We can divide the time according to the witnesses who are here.

The CHAIRMAN. Then whom do you suggest?

Mr. VEEDER. Gen. Lightfoot and I between us will see to it that one of us appears here all along and see that the witnesses for the opposition are allotted time, if that is what is desired.

The CHAIRMAN. If that is agreeable to all opposed to the bill, I am sure it will be agreeable to the committee.

Mr. SULLIVAN. Mr. Chairman, there is an independent witness here who desires to be introduced into the discussion, from the State of Minnesota, and will take only a very few moments of your time, the point being that Minnesota already has a stock yards regulation of its own, and desires to introduce the subject of amending the bill so as to exempt Minnesota from the operations of the bill.

The CHAIRMAN. Would the arrangement suggested be satisfactory to you?

Mr. SULLIVAN. Mr. Chairman, there is only one feature involved, and that is it will only take a few moments and his engagements are such that he would like to be heard early, if that is compatible with the division of the time on the part of those in opposition.

Mr. LIGHTFOOT. That is agreeable to us.

The CHAIRMAN. The thought is to give everybody an opportunity to be heard in the time alloted.

Mr. TINCHER. Mr. Chairman, I presume every one understands that the proponents of the different measures are to have to-day and to-morrow, and Friday afternoon, and the opponents are to have Wednesday and Thursday, and the morning of Friday.

The CHAIRMAN. Yes. The secretary of the National Live Stock Exchange is also here. You will confer with him. If there is any disagreement among you ——

Mr. VEEDER. We will refer it to you to arbitrate.

The CHAIRMAN. The committee will arbitrate for you.

Mr. LIGHTFOOT. We will try to accommodate anybody, so far as our time is concerned, who wants to appear in opposition to the bill, whether they are packers or commission men or whatever they may be.

Mr. TINCHER. And the chairman will control the time of the proponents of the legislation.

Mr. KINCHELOE. Yes; and I think it is very necessary for these gentlemen to control the time of those who are in opposition to the bill so that the time is not only allotted but they can pick the personnel of those whom they want to appear before the committee.

The CHAIRMAN. Of course. If there is any member of the committee who desires to control the time in opposition to the bill, we will be glad to have him do so. I understand no member wants to control the time against or assume the responsibility.

Mr. KINCHELOE. I think the chairman ought to control the time of those in favor of the bill.

Mr. LIGHTFOOT. Formerly, Mr. Chairman, the Congressmen who happened to represent the district in which these large interests are located——

The CHAIRMAN. Mr. Rainey and Mr. Anderson controlled the time last Congress.

Mr. LIGHTFOOT. The Congressman from that district is detained at home on account of very serious illness in his family, and we feel that unless there is some member of the committee who would like to control that time we will undertake to do it for ourselves.

The CHAIRMAN. Then, I think we are all agreed upon that.

The Chair lays before the committee the various packer bills introduced: H. R. 232, introduced by Mr. Anderson; H. R. 5034, introduced by Mr. McLaughlin, of Nebraska; and H. R. 14, introduced by Mr. Haugen.

I have introduced a bill, H. R. 14, but do not care to take up the time of the committee in a lengthy discussion of it now. We can discuss it later. It is the bill, practically, which was reported to the House by the last committee, and, if agreeable, I will only have my statement on the bill inserted in the record.

STATEMENT OF HON. GILBERT N. HAUGEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA, AND CHAIRMAN HOUSE COMMITTEE ON AGRICULTURE.

The CHAIRMAN. Bill H. R. 14, introduced by me, is practically identical with the substitute to the Senate bill (S. 3944) reported by the Committee on Agriculture last Congress. It is the product of that committee and the result of weeks and months of study and hard work by the Committee on Agriculture of the Sixty-sixth Congress. The committee gave 40 days' hearings, as is indicated in the 2,797 pages of

printed hearings. After the hearings were concluded the members of the committee met and decided upon the policy to be pursued and authorized the appointment of a subcommittee with instructions as follows: "That a subcommittee of five be appointed, including the chairman, to draft a bill for the regulation of packers. That a bill be drafted without providing for license system or a new commission, nor the provisions of section 14 of the Gronna bill (S. 3944)." The subcommittee, consisting of Mr. McLaughlin of Michigan, Mr. Anderson, Mr. Rubey, Mr. Rainey, and myself, together with Mr. Beaman of the legislative drafting service of the House, proceeded in an honest endeavor to draft and report a bill in compliance with the instructions of the full committee, which resulted in reporting back to the full committee the bill now before you, H. R. 14, with the exception of giving the Federal Trade Commission control over the packers, which was changed to the Secretary of Agriculture by the full committee, as is provided in H. R. 14.

In reading the bill it will be noted that it has four titles: Title I deals with definitions, Title II with packers, Title III with stockyards, and Title IV with general provisions.

Section 1 provides a short title for the act.

Section 2 defines "person," "live stock," "live-stock products," "commerce," and provides that any transaction in respect to an article shall be considered to be in commerce if such article is part of that current of commerce usual in the live stock and meat packing industry, whereby live-stock products, dairy products, poultry products or eggs are sent from one State with the expectation that they will end their transit after purchase, in another. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act.

As to the constitutionality of the above regulations I quote from the report, which is as follows:

> It may be argued that the attempt to regulate transactions in stockyards is unconstitutional on the ground that these transactions take place after the live stock has ceased to move in interstate commerce, and reliance may be placed upon the case of Hopkins *v.* United States (171 U. S., 578), in which it was held that the Sherman Antitrust Act did not include the acts of a live-stock exchange composed of commission men doing business at a stockyard and selling on commission consignments of cattle from another State on the ground that this business was not interstate commerce. A careful examination of the opinion, however, shows that the court was of the opinion that the acts of the defendants had only an incidental effect on interstate commerce in the absence of proof that the charges for the services were exorbitant, and the court clearly intimated that Congress would have authority to prohibit unreasonable charges and hence unfair practices.
>
> Furthermore, the force of the decision, even if adverse, is greatly lessened by subsequent decisions of the court. In Field *v.* Barber Asphalt Co. (194 U. S., 623) it seems apparent that the Hopkins case is construed by the Supreme Court to hold that for the purposes only of the antitrust act commission merchants are not engaged in interstate commerce, the case being cited in support of the proposition "that the antitrust act is not intended to affect contracts which have a remote and indirect bearing on commerce between the States." In Loewe *v.* Lawlor (208 U. S., 297) the court says that it does not "pause to comment on cases such as" the Hopkins case, "in which the facts show that the purpose of the agreement was not to obstruct or restrain interstate commerce. The object and intention of the combination determines its legality."

In Title II, which deals with packers, section 201 defines the term "packer."

Section 202 defines the term "secretary."

Section 203 makes certain acts unlawful for packers, that is to—

Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce;

Make or give, in commerce, any undue or unreasonable preference or advantage to any particular person or locality;

To sell or otherwise transfer to or for any other person, or to buy, or otherwise receive from or for any other person, any articles for the purpose or with the effect of apportioning the supply in commerce between any such packers;

With the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce;

Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce;

Conspire, combine, agree, or arrange with any other person to apportion territory for carrying on business in commerce, or to apportion purchases or sales of any article in commerce, or to manipulate or control prices in commerce; or to

Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful.

The acts made unlawful are among those alleged to exist by the witnesses appearing before the committee and referred to by the Federal Trade Commission in its reports.

Section 204 provides the procedure, which is that whenever the Secretary has reason to believe that a packer has violated these provisions he shall cause a complaint to be served on the packer. After a full hearing, if the Secretary finds that the law has been violated, he may issue an order, from which an appeal may be taken to the circuit court of appeals. The court may modify or set aside the order, but the Secretary's findings of fact, if supported by evidence, are conclusive.

Section 206 also deals with the procedure and provides a fine of $10,000 for failure to comply with an order sustained by the court.

Section 207 provides that every packer shall keep such accounts, records and memorandums as fully and correctly disclose all transactions involved in his business including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that any packer does not fully and correctly disclose all transactions, the Secretary may prescribe the manner and form in which such accounts, etc., shall be kept.

Section 208 provides that section 6, 8, 9, and 10 of the Federal Trade Commission act be made applicable. These sections of the Federal Trade Commission act do the following:

Section 6 authorizes the commission to make investigations and require reports.

Section 8 requires Government departments to furnish information to the commission.

Section 9 relates to subpœnas, testimony, and immunity from prosecution.

Section 10 provides penalties for refusing to testify, for false reports, for failure to make reports and for giving out information by employees of the commission.

Title III of the bill deals with stockyards.

Section 301 defines stockyards, stockyard owner, market agency and dealer.

Section 302 defines "commission" as the Interstate Commerce Commission and "stockyards" as a place where 150,000 or more head of cattle, or 500,000 or more head of hogs are handled. The commission shall ascertain the stockyards which come within the definition and shall give notice.

Section 303 provides that 30 days after commission has given public notice, no person shall carry on business of a market agency or dealer unless he has registered.

Section 304 provides that it shall be the duty of a stockyard owner or market agency to furnish, upon request, reasonable stockyard services without discrimination.

Section 305 provides that all rates and charges shall be just and reasonable and nondiscriminatory.

Section 306 provides that stockyard owners and market agencies shall file with the commission, open to public investigation at the stockyard, schedules showing all rates and charges. Such schedule shall state rates and charges in such detail as the commission may require, also any rules and regulations. The commission may determine and prescribe such schedules. No changes shall be made in the rates or charges, except after ten days' notice. The commission may reject and refuse to file schedules as tendered. Whenever there is filed with the commission any schedule stating a new rate or charge or a new regulation or practice effecting any regular charge the commission may either upon complaint or upon its own initiative enter upon hearings concerning the lawfulness of such rate. After 60 days no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished have been filed and published, nor charge, demand, or collect a greater or less or different amount for such services. The penalty is not more than $500 for each offense and not more than $25 for each day. Whoever willfully fails to comply with the provisions, fine not more than $1,000.

Section 307 makes it the duty of stockyard owners to observe and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to furnishing stockyard services.

Section 308 provides that if any stockyard owner, market agency, or dealer violates sections 304, 305, 306, or 307 or any order of the court he shall be liable to the person injured thereby for the full amount of damages sustained.

Section 309 provides that complaints may be made to the commission by petition and that if the defendant does not satisfy the complaint within the time specified it shall be the duty of the commission to investigate; further, that the commission may at any time institute an inquiry on its own motion; and the commission may order defendant to pay. If not complied with within one year, defendant may file a petition in the District Court of the United States for the district. Findings and orders of the commission shall be prima facie evidence. If the petitioner finally prevails he shall be allowed a reasonable attorney's fee.

Section 310 provides that if the commission is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or

market agency is unjust, unreasonable, or discriminatory, the commission may determine or prescribe what will be just. Also the maximum or minimum to be charged.

The commission may make an order that such owner or operator shall cease and desist and shall not thereafter publish, demand, or collect any rate or charge other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum.

Section 311 is modeled after section 13 of the interstate commerce act in respect to conflict between State and Federal regulations.

Section 312 provides that the commission may order stockyard owners, market agencies, and dealers to cease, desist from unfair, unjust, discriminatory, or deceptive practice or device.

Section 313 provides that certain orders of the commission shall take effect within not less than five days.

Sections 314 and 315: Dealer's forfeiture makes it the duty of the district attorneys to prosecute.

Section 316 provides that the provisions of sections 12, 14, 16a, 17, and 19 and the first 10 paragraphs of section 20 of the interstate commerce act as amended and of all laws relating to the compelling of testimony before a commission and the immunity of witnesses in connection therewith, or to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the order of the commission, which are made applicable to the jurisdiction, powers, and duties of the commission in enforcing the provisions of this title, and to any person subject to the provisions of this title, except that the commission shall have no authority to prescribe the form of accounts, records, and memoranda of a dealer, unless it finds that the accounts, records, and memoranda kept by such dealer do not fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stock holding or otherwise.

Of the sections of the interstate commerce act referred to above:

Section 12 authorizes the commission to make investigations and take testimony.

Section 14 requires the commission to make reports of its investigations.

Section 16a provides for rehearings.

Section 17 authorizes the commission to make rules for its procedure and to carry on its work by divisions.

Section 19 authorizes the commission to sit and prosecute inquiries at any place.

Section 20, paragraphs 1 to 7, authorizes the commission to require reports and accounts.

Section 20, paragraph 8, prohibits the giving out of information by the employees of the commission.

Section 20, paragraph 9, relates to mandamus to enforce the commission's orders.

Section 20, paragraph 10, authorizes the employment of special examiners to take testimony.

Title IV deals with the ordinary clauses and is of a general nature.

The bill is designed to eliminate evils which are alleged to exist in respect to unreasonable practices resulting in heavy burdens upon the purchasers and consumers. The testimony before the committee in the Sixty-sixth Congress and the reports of the Federal

Trade Commission clearly indicate existing evils. That there is need for immediate legislation on the subject there seems to be no question. A careful study of the bill will, I believe, convince one that it will, if enacted into law, in a measure give protection to the purchasers of live stock, independent packers, and consumers from abuse and oppression, which are now evident.

AMENDMENTS.

In order to correct typographical errors and to make it clear that there shall be no dual jurisdiction in the bill between the Interstate Commerce Commission and the Secretary, and further to make it clear that the Secretary and the Interstate Commerce Commission shall have exclusive jurisdiction, the following amendments are suggested:

Page 9, line 13, strike out the word "employer" and insert the word "employee."

Page 11, strike out lines 22, 23, and 34, and lines 1 and 2 on page 12, and insert in lieu thereof the following: "The term 'dealer' means any person engaged in the business of buying or selling in commerce live stock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser; but does not include a market agency or a packer, or an employee or agent of either."

Page 27, line 1, strike out all after the comma down to and including the third comma in line 3, and in line 5 strike out the word "or," and at the end of line 13 add the following: "the act entitled 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914, but upon the enactment of this act the authority of the Federal Trade Commission under section 5 of such act of September 26, 1914 (unless complaint under such section has been served before the enactment of this act), shall be terminated so far as relating to any matter which by this act is subject to the jurisdiction of the Secretary of Agriculture or of the Interstate Commerce Commission; or"

Also one as to pleadings:

Page 5, line 15, strike out the words "specifying the alleged violations" and insert in lieu thereof the following: "stating his charges in that respect," and at the end of line 24 add the following sentence: "At the close of the introduction of evidence on behalf of the Government, or at any time prior thereto, the Secretary may amend the complaint by adding new charges; but in case of such amendment the hearing shall, on the request of the packer, be adjourned for a period not exceeding 15 days."

The CHAIRMAN. Mr. Anderson, are you ready to proceed now?

STATEMENT OF HON. SYDNEY ANDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA.

Mr. ANDERSON. Mr. Chairman and gentlemen of the committee, I want at the outset to express my pleasure at again having the privilege of appearing before this committee, with which I have had a somewhat long and certainly a very interesting association.

I also want to express my appreciation to the chairman and the members of the committee for allowing me to appear first on the program. The problems that come before this committee are not only interesting but exceedingly difficult and complex. They offer a very large opportunity for a lot of hard work, as well as the exercise of great constructive ability, and I can find it in my heart to regret that I do not have a closer and more intimate connection with the actual drafting of the legislation of the committee, as I had heretofore.

I do not intend to discuss the necessity for this legislation; but I may say that back of it there is a long history of combination, of agreements to apportion markets, to apportion supply, a long history of litigation resulting in the making of restraining orders, enjoining members of the Big Five and others from engaging in combinations and in oppressive practices with respect to competition, which I am sorry to say have more or less characterized the action of the Big Five in the packing business. I should say, to be entirely fair, that some of the things that were done probably were not unlawful at the time they were done, but the facts still remain that there is behind this legislation a long history of combination, apportionment of territory and of markets, as well as the oppression of competitors.

What I want to particularly discuss this morning is not the need of legislation but the character of the legislation which should be enacted and the essential requirements of that legislation if it is to be effective.

There has been a contention before this committee that the forums of law were open, if there were violations of law, and that it would be sufficient if we were to enact into law definite prohibitions to be enforced by the usual legal methods.

In my judgment no such form of execution can be in the slightest degree effective in this instance.

In the first place, the courts are already congested with the trial of cases which have criminal character on one side or civil character on the other. The offenses which are sought to be reached by this legislation are not necessarily essentially criminal. They are offenses against good business; they are offenses against the sound public policy of business.

In order to adequately deal with offenses of this character which, in statement, must of necessity be more or less indefinite, it is essential that an agency should be set up which, through the process of investigation and of trial of causes, can acquire a fund of information, a library of information, if I may put it in that way, as to the movement of the raw materials and the finished products in the channels of trade, the manufacturing processes, so far as those processes are an element in the business practices of those to be regulated by this legislation.

Fundamentally, it seems to me the primary requisite of legislation regulating the packers is the setting up of an agency between the producer and the consumer which can deal more or less informally with all of those who normally will come within its jurisdiction.

Particularly, I am impressed with the fact that there should be some forum in the stockyards clothed with jurisdiction to deal with the grievances that arise there on the part of the producers, the shippers, the commission men, the traders, or the buyers, and I think it is fundamental that whatever agency is set up in the stock-

yards should have jurisdiction of all of the parties; that is to say, that there should be no division of authority with respect to transactions in the stockyards.

An illustration which I think will justify that conclusion is this: When the railroad companies deliver stock in the unloading chute the liability of the stockyards company for the safety of that stock begins. Once that stock is delivered to the commission man and his gates locked against all comers, the liability of the stockyards company ceases for the moment and the liability of the commission firm commences. Again, when the stock is weighed, the bell is rung, the stock is again delivered to the stockyards company for delivery to the buyer, and so at that point the liability of the commission man ceases and the liability of the stockyards company again begins.

If you do not have a single jurisdiction over all of those who at one time or another may have a liability or a duty with respect to the cattle, your regulation will fall between two stools. If you jurisdiction fails as to the commission man and it is found by the regulating authority that the stockyards company has no liability but that the commission man has a liability, your regulating authority will be without power to enforce its conclusions with respect to and against the commission company. The same thing is true with respect to traders or others in the yards.

One thing which I think is fundamental in that respect is that there should be one single authority dealing with the stockyards and everybody engaged in transactions upon them.

I think it is equally clear that there should be a single tribunal dealing with offenses which may be committed by those whom the bill designates as packers.

The bills that have been introduced differ with respect to the authority which is to be set up for the enforcement of the provisions relating to the packers.

In the bill which I introduced that authority is conferred upon the Federal Trade Commission. In the bill which the chairman has introduced, that authority is conferred upon the Secretary of Agriculture. In the bill which Mr. McLaughlin, of Nebraska, has introduced, if I understand it correctly, the authority is conferred upon a commission created by that act.

Mr. TINCHER. Let me ask a question there. Mr. McLaughlin, is your bill the Kenyon bill which was passed in the Senate?

Mr. MCLAUGHLIN of Nebraska. No; the Gronna bill.

Mr. JONES. Are those the primary and essential differences in the three bills?

Mr. ANDERSON. So far as the bill which Mr. Haugen has introduced and the one which I have introduced, that is the primary difference. With respect to the bill Mr. McLaughlin, of Nebraska, has introduced, there are a number of differences. The whole theory of regulation under the McLaughlin bill, which is the Gronna bill, is different from the theory of regulation which is prescribed in either the bill which Mr. Haugen has introduced or the one which I have introduced.

The CHAIRMAN. Your bill is identical with the bill reported by the subcommittee.

Mr. ANDERSON. Yes, sir.

The CHAIRMAN. The only change is to transfer the control to the Secretary of Agriculture instead of the Federal Trade Commission.

Mr. ASWELL. Is the McLaughlin bill the result of the conference report on the bill?

Mr. ANDERSON. No; the McLaughlin bill is the bill which passed the Senate in the last Congress.

Mr. ASWELL. And embodies practically the same bill that was agreed upon in conference.

Mr. ANDERSON. There was not any conference.

Mr. KINCHELOE. Is your bill the same bill that was reported from this committee to the House?

Mr. ANDERSON. Yes; with the exception that the committee adopted an amendment placing the jurisdiction over the packers in the Secretary of Agriculture, whereas my bill puts that jurisdiction in the Federal Trade Commission.

Mr. KINCHELOE. And the bill that passed the Senate provided for a special commission.

Mr. ANDERSON. Yes; that bill provided for a special commission. I do not know that it is a matter of first importance as to where the jurisdiction over the packing industry rests; but I would like to state the condiderations which led me to the conclusion that that jurisdiction ought to be conferred upon the Federal Trade Commission.

I should say in that connection that I can appreciate the feeling on the part of those who are to be regulated by this legislation, if it is enacted into law, that the Federal Trade Commission as presently constituted and as it has been constituted heretofore, has shown a disposition which they feel is not entirely fair to them; but if the Federal Trade Commission is not so constituted that it can be charged with such duties as Congress thinks ought to be imposed upon it, then the commission ought to be abolished or a new commission selected.

I proceed now to the considerations which led me to the conclusion that the Federal Trade Commission was the proper tribunal upon which to confer this jurisdiction.

We now have on the statute books the act creating the Federal Trade Commission. That act prohibits unfair methods of competition. The pending bills prohibit unfair practices and devices in commerce.

I take it that there are some actions which might be committed by persons regulated under this act which would be both unfair methods of competition and unfair practices in commerce. The result of a division of authority, therefore, assuming that the power to regulate the packers is placed with the Secretary of Agriculture, would be that you would have one set of decisions growing out of the enforcement of the unfair methods of competition provision in the Federal Trade Commission Act as to all industries generally with another set of decisions growing up under the Secretary of Agriculture involving somewhat the same acts under the prohibition against the unfair practices in commerce, and it was my judgment that by putting the enforcement of the provisions of these bills applicable to the packers under the Federal Trade Commission it would be possible to secure some degrees of uniformity, at least, in

the decisions with respect to industries generally and with respect to the decisions as applicable to the packers as a class.

In substance, they were the considerations which led me to the conclusion I reached. Now, there may be arguments on the other side which would lead to a contrary conclusion, but in my mind the difficulties arising from conflicts of decisions with respect to the packers as a class and industry generally, through a division of authority, outweighed any other consideration that came to my mind.

There is in both the bill introduced by Mr. Haugen and in the bill which I introduced, a provision which I think is entirely new in Federal legislation. It is the provision on page 2 in the third paragraph which undertakes to define commerce in a somewhat different way than it has heretofore been defined.

The second paragraph on page 2 is the usual definition of commerce and provides that the term commerce as used in the act means commerce among the several States or with foreign nations, etc. The provision to which I have referred provides that:

> For the purpose of this act (but not in any wise limiting the foregoing definition) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the live-stock and meat-packing industries, whereby live stock, live-stock products, dairy products, poultry, poultry products, or eggs are sent from one State with the expectation that they will end their transit, after purchase, in another; including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of live stock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act. For the purpose of this paragraph the word "State" included Territory, the District of Columbia, possession of the United States, and foreign nation.

This provision resulted from a consideration of the decisions of the Supreme Court with respect to transactions upon live-stock exchanges, notably the Hopkins case, in which it was held, if my recollection serves me correctly, and I have not read the case for some time, that an agreement between commission men with respect to a transaction in stockyards situated wholly within one State was not an agreement in violation of the Sherman antitrust law for the reason that such transactions in the stockyards did not constitute commerce.

There was, however, in the decision very strong intimation that if the objects and the acts done under the agreement were in effect a burden upon commerce that an entirely different question would have been raised.

Subsequent to the Hopkins decision the Supreme Court rendered a decision in the Swift case which I believe modified the rule which the court laid down in the Hopkins case.

As I recall the facts in that case, the decree prohibited certain acts with respect to transactions which were not in the purview of what we then understood commerce to mean, transactions in interstate commerce, and the decree of the lower court was objected to on that ground.

The court, in considering that question, said:

> When cattle are sent for sale from a place in one State, with the expectation they will end their transit for purchase in another, and when in effect they do so with only

the interruption necessary to find a purchaser at the stockyards, and when this is the typical, constantly recurring course the current thus existing is a current of commerce among the States, and the purchase of the cattle is a part and incident of such commerce.

Now, I am of the opinion that that is clearly a modification of the rule laid down in the Hopkins case, and that it is competent for us, under the interstate commerce clause of the Constitution, following this decision of the Supreme Court, to treat commerce in cattle and the products thereof as a complete chain of commerce and to regulate that entire chain of commerce to the extent that it may be necessary to effectually regulate a part of it that is actually commerce between the States, and I put this provision in the law as a sort of notice in case the question should be raised as to the purpose the Congress had in the enactment of this law to deal with the entire subject of cattle or of its products moving in this channel of commerce to which the court refers in the Swift case.

Mr. JONES. Just a question there. In the Hopkins case did the court hold that a transaction in the stockyards that pertained to cattle or meats should be shipped in interstate commerce was not a part of interstate commerce?

Mr. ANDERSON. I think that was substantially the decision, although the court did not expressly find that. The question that arose there was whether the contracts between the commission men constituted an agreement in violation of the Sherman Antitrust Act, and the court held it did not because the sale and purchase of cattle in the stockyards, situated in a State, was not, standing alone, interstate commerce; but in the Swift case they held that these transactions, considered as a part of a general movement in the channels of commerce, might result in such a burden upon commerce as to subject them to such regulation as was incidental, at least, to the regulation of the part which was clearly interstate commerce. Do I make that clear?

Mr. JONES. I had known, in other lines, that the tendency of the court had been to take cognizance of all actions in connection with interstate commerce and to construe it as a part of commerce that I was somewhat surprised at your statement of the decision in the Hopkins case, with which I was not familiar.

Mr. ANDERSON. There is another case, I believe, known as the Anderson case, substantially to the same effect, although I can not give you the citation.

Clearly, if these decisions should stand in their full effect without modification——

Mr. ASWELL (interposing). Then that provision in your bill would be necessary.

Mr. ANDERSON. This provision would be necessary, and we might go even further than that and say that if the court adheres to that position, without respect to anything you may put in this bill, your regulation will be entirely futile, and I think that is one of the essential infirmities of the Gronna bill, that if the court should hold, as it has held before, transactions in the stockyards are not interstate commerce and are not subject to Federal regulation, the whole scheme of regulation therefore fails. Unless we can find some means or something in the decisions of the courts which will bring these transactions which are a part of the general current of commerce within

the purview of the regulation of the Federal Government, this legislation will all fail of its purpose.

Mr. KINCHELOE. There would be no way for Congress to reach it at all.

Mr. ANDERSON. So far as it relates to transactions in the stockyards, there is no question about that.

The definition of the term "packer" is found in section 201 on page 3 of the bill, and is an attempt to reach, in some way, the problems that have arisen in connection with the so-called unrelated business of the packers.

The hearings before the committee, I think, demonstrated a disposition on the part of the large packers to extend their activities into many lines which were not directly connected with them and, through subsidiaries and interlocking directorates and joint-stock ownership or community of stock ownership, to control a very widely diverging class of articles.

The bill which I originally introduced, and I think the Gronna bill as well, undertakes to deal with that subject on the basis of direct prohibitions against the packer from engaging in certain of these unrelated lines. I think a consideration of the operations of such a provision will demonstrate, in the first place, that it is of doubtful legality, and, in the second place, that it is of doubtful utility; that is to say, it will be found practically impossible by direct prohibitions to prevent the extension of the influence of the existing packing companies into related or unrelated lines of activity.

In the bill I have introduced, as well as in Mr. Haugen's bill, we do not seek to deal with this proposition on the basis of direct prohibition at all. We do not undertake to say that it shall be unlawful for a man engaged in the packing business, or in marketing packing house products, to engage in any other business that he pleases.

We undertake to say that if a person engaged in the packing business—and when I say person, of course, I include corporations—undertakes to extend its control over other commodities, through the ownership of stock or otherwise, that the products of the company over which it has extended its sphere of influence shall be subject to the same regulation as the products of the packers themselves.

I think that is a perfectly legal provision. I think it is a perfectly sound principle, that we shall not only regulate the packers and the products which they themselves produce, but that we shall regulate in commerce the products of companies which are within their sphere of influence, either through community of stock ownership or otherwise, or direct stock ownership.

I said a moment ago that the theory of regulation which was adopted in the bill which Mr. Haugen introduced and the bill which I introduced is very different from the theory of regulation which is adopted in the McLaughlin bill and the Gronna bill.

The McLaughlin bill and the Gronna bill seek to regulate the packers by giving to a commission set up in the bill general power to make rules and regulations for the enforcement of the act. Under it, a regulation could be made to-day, without hearing, a violation of which on the part of a packer would be a criminal offense.

It is my judgment that people who are to be regulated by law are entitled to a consideration which such a provision does not give. General regulations also contemplate restrictive provisions constantly applicable, which are very apt to interfere with that freedom of management of the business of the packer which is absolutely essential, in my judgment, if we are to have the highest degree of efficiency in the management of the packing business.

We have had an experience with the railroad companies under general Federal control, which permitted the adoption of rules and regulations universally applicable and which interfered with the liberty of management on the part of those financially responsible for the success of the railroad companies. I do not think that that control was a howling success. I would not want to see the same kind of control exercised over the packers because I believe its effect would be to decrease their efficiency and consequently implement certain costs incident to that efficiency either against the consumer or the producer.

There is also this to be taken into consideration in connection with extending to any governmental authority the general power of regulation over an industry as a whole: There still is in the packing industry a certain number of independent concerns. When I say that, of course, I do not mean to allege that there is conclusive proof of any combination on the part of the Big Five. However, it has been customary to divide the volume of business in the country, generally, between the Big Five and the independents.

I think there will be no question about this statement, that the relative amount of business done by the BigFive, both in the purchase of cattle and hogs and sheep and the sale of the products thereof, has steadily increased over the proportion done by the independents as a whole, and this in spite of the fact that the independents, during the last few years, and particularly during the war, have made very great progress in the volume of their business. I remember that it was the opinion of practically every one of them who appeared before this committee that their volume of business in the aggregate had increased in proportion to the volume which was done by the Big Five, but they were mistaken about it. While their volume had increased in a very large proportion, the volume of the Big Five had still further increased, so that it was doing a larger proportion of the business in 1920 than it did in 1910 or 1915.

The point I am getting at, however, is this, that when you impose general regulations you must impose those regulations upon the little fellow as well as upon the big fellow, and the regulations, because of the fact that the costs as to the little fellow can be spread over a much smaller volume of business, always rests more heavily upon the little fellow than it does upon the big fellow.

Consequently, we sought a means of getting away from that situation, because I think that if there is one thing that is desirable in this situation it is that there should be in the country strong, independent competition in the packing business, and it is my guess, although I have no personal knowledge of it, that the large packers themselves realize that sound, healthy, independent competition is a good thing for them as well as for the country.

Therefore, in drafting the bill, which I had the privilege of having some part in formulating, we undertook to get away from the proposition of imposing general regulations upon the industry as a whole, and in order to do that we followed the procedure which is now provided in part in the Federal Trade Commission act as to the packers.

Under this procedure if a packer engages, or if a number of packers engage, in a practice which is in violation of the provisions of the act, he is called before the Federal Trade Commission, or the other regulating authority set up, and required to show cause as to why that practice should not be discontinued. There is a hearing upon the question in which the packer has an opportunity to be heard, and if the commission determines that the practice is one prohibited by law, within the general prohibitions of the act, it shall issue an order to the packer or packers involved to cease and desist from that practice. From that order the packer has the right of appeal.

When the order becomes conclusive, either by failure to appeal or by its being affirmed by the court, a further violation of the order becomes a criminal offense subject to penalty. I do not think anyone will claim that that is a drastic or an unreasonable procedure or one which deprives those regulated of any right which they are entitled to have, when charged with a violation of the provisions of this bill.

Mr. KINCHELOE. In other words, Mr. Anderson, is it true that under the provisions of your bill the second or subsequent offenses will be subject to a criminal penalty and not the first offense.

Mr. ANDERSON. That does not exactly state the situation. No penalty attaches until it has been determined that the particular act done constitutes a violation of the law and the packers engaging in that practice have been ordered not to do it any more and that order has become final.

Mr. KINCHELOE. Then if they do persist they are subject to a criminal penalty?

Mr. ANDERSON. Yes.

Mr. KINCHELOE. Is that true under the Gronna bill?

Mr. ANDERSON. It is not entirely clear. I have not read the Gronna bill for some time, but my recollection is there is a procedure in the bill somewhat similar to the one which I have outlined; but in addition to that there is power to issue general rules and regulations, and the violation of one of those rules and regulations, or an act committed which is a violation of those rules and regulations, is a criminal offense.

When you are dealing with business practices, where it is necessary that you shall have a certain amount of freedom of action and of initiative, you will hamstring the whole business, in my judgment, if you undertake to deal with it on the basis of bureaucratic regulations made to-day, the violation of which to-morrow is a criminal offense.

Mr. KINCHELOE. Of course; I was not asking for the purpose of argument.

Mr. ANDERSON. Yes; I understood that.

Mr. KINCHELOE. But merely to get information as to the distinction between the two bills.

Mr. ANDERSON. I think the objections to the Gronna bill are very numerous, particularly the legal objections. I think every statement that is made in the report of the chairman of this committee in connection with the bill which he reported out last year as a substitute for the Gronna bill is absolutely sound, and I think it would pay the members of this committee, if they have not done so, to read that report, because it contains a very clear and a very illuminating analysis of the differences between the Gronna bill and the bill which Mr. Haugen reported and has again introduced as to the method of procedure and the objections to the procedure which is followed in the Gronna bill.

Mr. TINCHER. I agree with the gentleman about that, and as the reports on the Haugen bill are exhausted, let me suggest that you have that report made a part of your statement.

Mr. ANDERSON. I will be very glad to have the report made a part of my remarks, if that is agreeable to the chairman. I think it would be desirable to have it reprinted, because it does contain a very clear and a very illuminating analysis of the difference between the two bills.

The CHAIRMAN. And in that connection, the legislative drafting service should be given credit for much of that report.

Mr. ANDERSON. I want to say that the legislative drafting service is not only entitled to credit for the report, but is entitled to credit for some very able assistance in the drafting of this legislation.

The CHAIRMAN. Mr. Anderson and I agree that we are under great obligations to the legislative drafting service in drafting this bill and in drafting the report.

Mr. KINCHELOE. Mr. Anderson, on account of your knowledge by reason of your extensive investigation of this matter, I read your statement before, and if I understood you, in that statement, as between the Gronna bill and the bill reported to the House by this committee, as to the personnel of the authority to regulate, you preferred the commission provided in the Gronna bill in preference to the power being vested in the Secretary of Agriculture; that is, as between those two bills, is that true?

Mr. ANDERSON. I do not think I ever expressed any opinion about that particular proposition. I did not appear before the committee except at the very inception of the consideration of the bill and I do not think I made any statement about it.

Mr. KINCHELOE. I may be mistaken about that but that is the impression I had.

Mr. ANDERSON. There is the same objection, however, to the setting up of a separate commission as there is to the setting up of the Secretary of Agriculture; that is, the possibility of a conflict of decisions.

Mr. KINCHELOE. Yes.

Mr. ANDERSON. As I said before, there may be considerations on the other side which outweigh that objection or consideration. For instance, it may be said that the packers are now subject to the jurisdiction of the Secretary of Agriculture in a number of particulars, notably with respect to the enforcement of the pure food laws, meat-inspection laws, and so forth, and that there has already been established a relationship between the packers and the Secretary of Agriculture or the Agricultural Department which it is desirable to

take into consideration in connection with the enforcement of such a bill as this. So far as I am concerned, as I said before, I do not know that that is a matter of primary importance. It is certainly one upon which there may be a difference of opinion.

I think that is substantially all I want to say about the bills at this time, except that in the provisions with respect to the stockyards we follow substantially the provisions now in force with reference to rates and practices on the railroads, in the belief that there was a similarity in the problems to be solved between the rates and practices on the railroads and the facilities which they are to furnish and the rates and practices in the stockyards and the facilities to be furnished there. The same character of questions arises in both cases, and we thought that the Interstate Commerce Commission, with the experience which it has already had in dealing with those questions, was better qualified to deal with them in the stockyards than any other agency.

Now, Mr. Sullivan referred to the fact that the State of Minnesota now has a provision for the regulation of the stockyards in that State. Under that law the stockyards and traders and commission men are subject to the jurisdiction of the Railway and Warehouse Commission. The Railway and Warehouse Commission has set up an agency in the stockyards which deals with the grievances and the complaints and the conditions that arise in the stockyards.

I hope the committee will hear Mr. Wells, who is in direct charge of the regulation of the stockyards at South St. Paul. I think he can give the committee a great deal of information which will be valuable to them in consideration of this general legislation. He is anxious and I am anxious that the regulation which we have established there should not be disturbed.

I am frank to say that if it were possible to have local State regulation of the stockyards, substantially uniform in character, I believe State regulation to be preferable to Federal regulation. I am, in general, of the opinion that the nearer you can bring the regulating authority to the people, the more likely you are to have regulations which are applicable to local conditions. In Minnesota they have established a contact between the railway and warehouse commission or its agent in the stockyards and the producers and the shippers and the commission men and the buyers, which I think has been exceedingly helpful in the solution of the problems that have arisen there. The regulation, I am told, has saved the shippers of the country thousands of dollars in charges for yardage, feed, and other costs arising in the yards. It has resulted in administrative improvements, very much in the interest of the producers as well as in the interest of the stockyards company and the commission men.

I am told that the fact that State regulation of stockyards in South St. Paul exists has been a very large factor in inducing business in those yards. It has been of tremendous advertising value to the stockyards company and to the commission men in South St. Paul.

As I have said, we are anxious to preserve State regulation. I have prepared an amendment which I think will do it and which will be presented by Mr. Wells when he is heard by the committee. I hope the committee will hear him at some length, because I think he has something to say that will be of interest from the standpoint

of Federal regulation as well as from the standpoint of State regulation.

Mr. KINCHELOE. Of course I have not had opportunity to read your bill as fully as I shall do, and I am sure you appreciate the handicap a man labors under coming on the committee as a new member and not having heard the former hearings. So I will ask you a question or two. Do you think there is any evil to the public in general through the packers owning, controlling, and operating their own stockyards?

Mr. ANDERSON. Mr. Kincheloe, I do not think it is a question of ownership. There is some advantage which might arise to a packer as the result of ownership of stockyards. Probably, however, that advantage is a fair business advantage. That is to say, the packer who owns a stockyard into which cattle come which are bought not only by him but by everybody else takes a certain amount of toll from all those cattle, and he is benefited as much in that toll by the cattle that are bought by other packers as by the cattle bought by himself. He has in that volume a certain business advantage in the yards over the man who does not own any stock in those stockyards. I do not think there is any doubt about that. On the other hand, from the standpoint of regulation it does not seem to me it makes any difference who owns the stockyards. The question we are interested in is: How are the stockyards conducted? Are they conducted in such a way that no unfair advantage is taken of the producer, who can not protect himself, and is there no unfair advantage taken of the consumer, who can not protect itself? In other words, what we are interested in is having the stockyards run in the public interest, and the question of ownership as it seems to me does not bear very directly upon the determination of that question.

Mr. KINCHELOE. Let me ask you one more question.

Mr. ANDERSON. The reason, of course, for the raising of the question of ownership I think was this: Those who raised that question were mostly of opinion that the stockyards should be owned by the railroads, because if owned by the railroads it was thought they would be subject to the same regulation as to rates, practices, and facilities as the railroads are. Now, we attempt to accomplish all that under this bill without undertaking to compel a change of ownership, the difficulties of which are pretty well illustrated by the attempts that have been made under the decree to divest the packers of ownership of stockyards. I am assuming that there has been an honest effort on the part of everybody to accomplish that end in the decree that requires it.

Mr. KINCHELOE. What is your idea as to what evil there is in having none of the packers own the refrigerator cars?

Mr. ANDERSON. Well, I think that raises substantially the same question. I have never gone into that question to the same extent I have some other questions involved, but if the refrigerator cars and the refrigerator companies are common carriers and the same rules apply to them as to nondiscriminatory rates and practices as would apply to other common carriers I do not think the question of ownership would apply to the same extent that it has been urged by some people. But there again it seems to me it is a question of conducting the refrigerator cars on such a basis that every shipper shall have a reasonable and fair use thereof. If refrigerator companies are com-

mon carriers and must operate their cars for the benefit of everybody concerned without undue advantage to anybody, the question of ownership I do not think a very material one.

Mr. KINCHELOE. That is what I was leading up to. Now, do they have to furnish these refrigerator cars to independent packing concerns who do not own refrigerator cars?

Mr. ANDERSON. Only by agreement, I think.

Mr. KINCHELOE. That is what I did not know.

Mr. ANDERSON. There was some amendment in the transportation act which gave the Interstate Commerce Commission some authority over refrigerator cars which it did not formerly have. I must say, however, that I am not sufficiently familiar with that provision to discuss the limit of its effect. But it was stated by the commission at the time that the provision was sufficient to give the Interstate Commerce Commission the same authority with respect to refrigerator cars as over any other class of special equipment cars, or any other cars.

Mr. TINCHER. It did give the commission authority to require the common carrier to furnish refrigerator cars in any suitable quantity to those having use therefor.

Mr. ANDERSON. But it did not take away from the packers or anybody else the right to operate their own refrigerator lines to the exclusion of any other shipper. That is the difficulty.

Mr. ASWELL. May I ask if one of the provisions of your bill avoiding general drastic regulations would not go far to meet the propaganda and criticism of too much Government in business?

Mr. ANDERSON. I think it does.

Mr. ASWELL. That seems to me a very important point.

Mr. ANDERSON. That is one of the things I had in mind in adopting the form of procedure we adopted in this bill.

Mr. ASWELL. You are not adding any new regulations or new control by new rules of any sort?

Mr. ANDERSON. No, sir.

Mr. TINCHER. Does your bill, in your judgment, confer upon the Federal Trade Commission any different jurisdiction to what they now have. It has been suggested that your bill in effect makes a court of the Federal Trade Commission and gives them a different class of jurisdiction.

Mr. ANDERSON. I do not think that is true. Of course it does give them a wider jurisdiction, because, as I take it, there is an extension of the Federal Trade Commission's powers in the additions that we have made to the things that are prohibited.

Mr. TINCHER. The packers themselves in the hearings here, through their well-informed men, advocated a continuation of the Federal Trade Commission. They complained of some of the personnel of the Federal Trade Commission but advocated a continuation of the body. To put this power with some other body, commission, or other officer, that you are seeking in your bill to give to the Federal Trade Commission, would of necessity avoid duplication, or in the former case avoid our taking from the Federal Trade Commission certain powers that they now have, wouldn't it?

Mr. ANDERSON. I think so. Of course it seems clear that the packers should not be subject to regulation by the Federal Trade Commission under the unfair methods of competition prohibition,

and also subject to some other regulating authority under the general prohibitions of this act, even though there may be some practices included in unfair methods of competition which would not be included in this bill.

Mr. TINCHER. The packers complained of some of the reports of the Federal Trade Commission as published and of certain conclusions the commission reached concerning the five big packers. If the Federal Trade Commission had the responsibility of making an order to stop any unfair practices, or to stop this or that practice, if their reports were inclined to be sensational or probably even unfair as charged, that would have a tendency to stop such a thing and the system, wouldn't it?

Mr. ANDERSON. It seems so to me. That recalls to my mind this thought which I wanted to present to the committee: It is a matter of common knowledge that there is not the relationship of confidence between the producer and the packer and between the packer and the general public which, in my judgment at least, it is desirable to have. And I do not know of any way to create that condition of confidence except to set up an agency between producer and packer, and between packer and consumer, that will give confidence to the producer and to the consumer, and tend to induce the belief that somebody is going to see to it that a square deal is given to everybody concerned. I think that the setting up of such an authority is just as much in the interest of the packer as in the interest of anybody else; that instead of the thousands of dollars and perhaps millions of dollars spent in good-will advertising in the last few years in an effort to create a feeling of confidence on the part of the producer in the integrity of the stock markets and in the integrity of the practices of the packer, let us have something like this that will not entail such an expense on the people. And there is in my judgment a greater lack of confidence and greater distrust to-day than there has ever been since this question was first agitated.

I think it is in the interest of the people of the country as a whole that some action be taken by this committee and by this Congress to reduce the whole situation to one of mutual confidence and assurance of a square deal. This situation is not much different from the situation that existed years ago when we first began to consider regulation of the railroads and when the railroads and other concerns, which we now consider public utilities, were mentioned as public utilities. And while I am not prepared to say that the situation in the packing industry is such that the packing industry should be considered a public utility, I do undertake to say that its potential industrial power is so great that we must deal with it in some sense of supervision, such as we have exercised in the case of the railroads and other public utilities.

Mr. VOIGT. Your present judgment is that the administration of any packer bill should be left in the hands of the Federal Trade Commission?

Mr. ANDERSON. So far as it relates to those who are defined in the bill as packers, yes. I think, as I stated at the beginning of my remarks, that regulation of the stockyards and everybody in them should be under one jurisdiction, but whether it should be the same jurisdiction as controls or regulates the packers, I am not prepared to say. I have no definitely formed opinion about that.

Mr. TINCHER. The general opinion of all the witnesses we have heard on the subject is that they bear a more direct relation to transportation.

Mr. ANDERSON. The questions that arise there are more nearly identical with questions that arise in transportation than any others I know of. They are questions as to furnishing facilities and the rates and charges which are charged for furnishing such facilities and services.

Mr. TINCHER. You are absolutely right, I think, in your statement as to a condition of lack of confidence, and perhaps there never was more occasion for that feeling toward the industry than right now, a time when the producer is selling his product way below the cost of production, and where the ultimate consumer is paying a price that bears no relation to that which is paid to the producer.

Mr. ANDERSON. I suspect the packer is having his troubles now, too.

Mr. TINCHER. That is what I was going to ask. The packer, no doubt, has a serious situation confronting him right now. But, Mr. Anderson, does your bill reach the real evil of this situation? Do you think that under the bill you have before the committee the Federal Trade Commission or anyone else would be able to see to it that the packer does properly value his product to the consumer, and see to it that the consumer gets that product at a legitimate profit only, above cost of production?

Mr. ANDERSON. I think so, at least as far as any governmental agency can accomplish that result.

Mr. TINCHER. You know, I have always had, what some might term a fool idea about this packer proposition, and that is that instead of enacting a law to prevent the packer from retailing his meat, that we ought to enact a law to force him to see that the consumer gets the meat without paying three or four times what the packer even sold it for.

Mr. ASWELL. You ask, Mr. Tincher, will this bill reach the evil? What is the evil?

Mr. TINCHER. The evil is that perhaps I sell an animal at 6 cents a pound, and then if I buy a beef steak in Washington I pay 45 or 50 cents a pound for it.

Mr. ASWELL. That is the evil?

Mr. TINCHER. That is the evil. Is there anything unfair about that? I understand the way the thing is being handled now that even the packer is losing money, but I do not know where the money is going if he is losing money.

Mr. JONES. I understand the retailer is overcharging for meats frequently. The packers are publishing their cost prices to the retailer, and now where is the trouble?

Mr. ASWELL. Does this bill reach the retailer?

Mr. JONES. Mr. Tincher was just suggesting that we ought to require the packer to sell to the retainer at a limited price.

Mr. TINCHER. I think the Federal Trade Commission under this bill would have some jurisdiction as to unfair practices all down through the line. Mr. Anderson's idea is that it is ithe product he has in mind.

Mr. ANDERSON. I want to make it perfectly clear that this is not a price-fixing bill. I am personally opposed to any governmental

agency fixing prices. It has been tried for a time dating back 4,000 years before Christ by nearly every people on the face of the globe and it has not worked out.

Mr. JONES. Would that be a price-fixing bill? First, suppose the bill should require of the packer to see to it that the retailer sells at a profit not more than a third or a half of 25 per cent, or any percentage that might be agreed upon, would that be fixing the price, to say: We will not sell to you unless you will agree to this?

Mr. ANDERSON. I think eventually it would be.

Mr. PURNELL. Has the Congress power to pass any legislation such as that?

Mr. JONES. I am asking for information.

Mr. ANDERSON. We have passed a lot of legislation to prohibit such things.

Mr. JONES. We have also passed legislation to prohibit profiteering, in a sense. That was the effect of it during the war.

Mr. ANDERSON. I think the way to regulate prices is to create in the industry, as far as it is possible to do it, healthy conditions of competition. The trouble with us heretofore has been that we have dealt with the fact after it has become an accomplished fact. We have not undertaken to deal with a monopoly until after a thing has become a monopoly, and then we have sought to divide it into its constituent parts and compel those parts to compete all over again. I think that has been a failure in each and every instance. What this bill seeks to do is to prohibit the particular conditions under which monopoly is built up, and to prevent a monopoly in the first place and to induce healthy competition.

Mr. JONES. Did the Senate consider a bill during the last session along the line of the bill you have here?

Mr. ANDERSON. The bill had been introduced about the time the Senate was considering the subject, but I do not think that the Senate considered it.

Mr. JONES. They actually passed a bill somewhat similar to the other one?

Mr. ANDERSON. They passed what was called the Gronna bill.

Mr. JONES. And it came over to the House for action?

Mr. ANDERSON. Yes.

Mr. JONES. That is quite similar in some respects to your bill?

Mr. ANDERSON. It is dissimilar in many respects.

Mr. JONES. The reason I was asking that question is to know the situation, as to whether they gave serious consideration to your bill. I wanted to get an idea as to whether there might be a tie-up between Senate and House in the view of what should be done in the way of legislation. If they have passed and favor a particular bill, and it is quite dissimilar from yours, as a practical proposition wouldn't it be hard to get your bill through?

Mr. ANDERSON. My observation is that the Senate usually yields when the House is right.

Mr. MCLAUGHLIN of Nebraska. You expressed yourself in criticism of the provision in the Senate bill creating a Federal live-stock commission in that it empowered such a commission to make rules, regulations, orders, etc. I presume you referred principally to section 10, on page 9, where it reads:

The commission may make such rules, regulations, and orders as will be necessary to carry out the provisions of this act.

Of course that provision is nearly always used in such measures. It would seem to me from the very reading of the provision that the rules, regulations, and orders are in no way of a legislative character, but that they are similar to such rules, regulations, and orders as may be necessary by the commission to carry out the provisions of the act.

I would like to ask you in that connection if it should transpire that a separate commission should be appointed, and if this provision should remain in the law, would the new commission, having the power to make rules, regulations, and orders necessary to carry out the provisions of the act, have any wider authority or any greater scope of power than the Federal Trade Commission would have under the act suggested by your bill, in case the enforcement or supervision of the law were placed in the hands of the Federal Trade Commission?

Mr. ANDERSON. Not if they put the construction on it that you do. But the construction that they might put upon it possibly or even probably might be a different one. If they considered that law as granting them power to enforce the general prohibition of section 12 of the Senate bill, they might start out to say right off the bat, without any hearing whatever, such and such a thing is prohibited by the provisions of this act, and immediately issue general regulations prohibiting everybody in the industry from doing that particular thing.

Mr. MCLAUGHLIN of Nebraska. Of course that would all be subject to review by the courts.

Mr. ANDERSON. Well, I do not know whether it would or not.

Mr. MCLAUGHLIN of Nebraska. Oh, certainly it would.

Mr. ANDERSON. I presume that a packer might get out an injunction restraining the enforcement of such an order, and eventually get a review of the validity of the order.

Mr. MCLAUGHLIN of Nebraska. Certainly, he could do that without any trouble when the bill provides that they may make such rules, regulations, and orders as may be necessary to carry out the provisions of this act.

Mr. ANDERSON. I believe the least that can be done, the least that ought to be done in the case of power to issue general regulations, if you are going to give any such power, is to provide that such rules, regulations, and orders shall not be issued without a hearing and without consideration of the questions involved, in which consideration those to be regulated shall have the right to be heard before the regulation is issued and becomes effective.

Mr. MCLAUGHLIN of Nebraska. Under your bill would the Federal Trade Commission have the power to issue such rules, regulations, and orders as may be necessary to carry out the provisions of the law?

Mr. ANDERSON. Only for the purposes of procedure. It would not have the power to make general regulations.

Mr. PURNELL. I only want to ask one question there: You have given this matter considerable study. Are you convinced that we can carry out the purpose sought to be gained by this bill without the creation of any new board or commission?

Mr. ANDERSON. I should think that entirely feasible.

Mr. ASWELL. Your statement is very illuminating and helpful to me. But you have made one statement, at least by inference, that causes great confusion in my mind and some discouragement. You intimate that this proposed legislation is similar to that regulating the railroads.

Mr. ANDERSON. As to the stockyards only.

Mr. ASWELL. All right. Now, a few days ago I saw about 200 Congressmen, many of whom had voted for the railroad bill, up at the White House with the farmers of the country, begging the President to let them change and retract in the matter of the act that was passed.

Mr. ANDERSON. That is true, but you must remember that——

Mr. ASWELL (continuing). Are you in favor of anything of that kind in this bill?

Mr. ANDERSON. The question with that bill was that the Congress did give to the Interstate Commerce Commission authority to do a certain thing, namely, to make rates upon the basis that they would return 5 per cent upon the aggregate value of railroad property. The Interstate Commerce Commission in construing that provision came to the conclusion that it required an increase in freight rates. What action the commission would have taken if we had left them entirely free to solve the problem without any legislative directions is another question.

Mr. ASWELL. You do not fear any such result in this case?

Mr. ANDERSON. No, because I do not think there is any similar provision in this proposed legislation, any provision which would tie the hands of the Federal Trade Commission in dealing with the question in a sensible and informal way.

Mr. TINCHER. Of course the Interstate Commerce Commission's hands were tied again in another way, which probably ought to be corrected—letting another commission fix the expenses which the railroads may be put to in the way of fixed charges.

Mr. ANDERSON. Of course the gentleman from Kansas [Mr. Tincher] is right about that. Unless there are further questions by some member of the committee, I want to thank the committee for its patient consideration.

Mr. TINCHER. Mr. Anderson, I have been requested to ask you a question about your bill. To what extent would your bill apply to the commission man or speculator on the market, and to what extent do you think that necessary?

Mr. ANDERSON. It would extend to a regulation of the services which he renders, the price which he charges for his services, and the practices which he engages in on the stockyards.

Mr. TINCHER. And he would be under the Interstate Commerce Commission?

Mr. ANDERSON. I would suppose so. And if I were a member of the Interstate Commerce Commission, charged with the administration of this act, I would set up an agency in each stockyards, right in the stockyards themselves, to deal with the proposition in a local and intimate way, on the same basis substantially as it is dealt with under the provisions of the Minnesota statute. I certainly would not want to see an attempt made to regulate the stockyards from Washington. I think that would be a mistake and would destroy the effectiveness of the entire system of regulation. My

idea is that there should be an agency set up in the stockyards themselves to deal directly with the producer and commission man and the buyer and the trader in a direct and more or less informal way. The less procedure you have as to matters upon which you can come to an agreement with various parties the better you are off in my judgment. The most of these matters are matters of adjustment between the various parties concerned.

Mr. TINCHER. Mr. Anderson, getting back to the proposition I mentioned to you a while ago: As I understand it here in the city of Washington, and I have visited the market, the wholesalers, that is the packers, have their offices, we will say facing the east as I do not remember which direction, and you walk right through the building to the retail offices facing the west. The retailer walks in to the wholesaler and buys meat and takes it over there and retails it. If the condition exists to-day that existed one morning when I was down at the market it is a bad situation, for then the wholesalers were selling liver at 14 cents a pound and the retailer was walking across the place and retailing it at 42 cents a pound.

If that is partially accountable for the unrest and lack of confidence, and that is one real evil in the business, under your bill where a Government agency has the power to prevent unfair practices, if that agency should conclude that the packer should not discriminate as to the people to whom he sells his product, it would not take long to reduce the retail market on those products in the city, would it?

Mr. ANDERSON. If the commission came to that conclusion and made an order which became final, no.

Mr. TINCHER. Those of us who are in favor of regulation have been somewhat at right angles on this proposition.

Mr. ASWELL. How would you have any wholesalers if everybody could buy at retail?

Mr. TINCHER. I understand that, but if there is such a spread, and it is of such a public character that it requires regulation, which I think is the case, there might be such regulation as would help a great deal.

Mr. ASWELL. Certainly.

Mr. TINCHER. For instance, if a man could buy that liver at 22 cents a pound instead of 42 cents a pound, at which price it was selling the day I was there, and there was nothing but a legitimate transaction carried on there, producers and consumers would both profit and it would not hurt the legitimate man at all in the handling of it.

And in this connection there was an action brought as I understand it by the Attorney General some time ago to prevent the packer from doing the very thing I have really advocated he ought to do, and that was the situation I have described. That is to say, that the producer shall get his product to the market with only a fair profit added.

Mr. ANDERSON. Well, of course before there could be any action before any regulatory authority there would have to be a course of conduct which was contrary to some provision of this act. The commission or regulatory authority would not have any power to make something unlawful which was not made unlawful under the general prohibitions. If those prohibitions did not cover things that ought to be prohibited in general terms, then the only way to reach such a proposition would be to extend the prohibitions sufficiently to reach them.

Mr. TINCHER. Do your prohibitions prevent discrimination?

Mr. ANDERSON. What constitutes discrimination is always a question of fact to be determined by all the conditions surrounding the transaction.

Mr. PURNELL. If the fault lies wholly with the retail man we better reach him directly and not force the packers to do it for us.

Mr. TINCHER. I think Mr. Anderson answers that question in the statement which he has made here. When he said we had to have this regulation brought down to the product, I think he reached it. I do not think we can pass a law saying to the retail man: You shall do so and so. But we can pass a law authorizing someone to regulate the handling of the product; and if we do that I think it will have a tendency to cure some of the evils from which the people suffer.

Mr. VOIGT. There is the act of 1920 giving some additional power to the Interstate Commerce Commission in connection with refrigerator cars. Doubtless this committee will want to know something about what that is. If you do not mind, Mr. Anderson, I would like to have that printed in connection with your statement. There are three paragraphs of section 1 in the interstate commerce act which will give the committee some information on that subject.

Mr. ANDERSON. I will be very glad to have that go in here.

The CHAIRMAN. Without objection it will be inserted.

Mr. VOIGT. It is as follows:

(3) The term "common carrier" as used in this act shall include all pipe-line companies; telegraph, telephone, and cable companies operating by wire or wireless; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation or transmission as aforesaid as common carriers for hire. Wherever the word "carrier" is used in this act it shall be held to mean "common carrier." The term "railroad" as used in this act shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this act shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "transmission" as used in this act shall include the transmission of intelligence through the application of electrical energy or other use of electricity, whether by means of wire, cable, radio apparatus, or other wire or wireless conductors or applicances, and all instrumentalities and facilities for and services in connection with the receipt, forwarding, and delivery of messages, communications, or other intelligence so transmitted, hereinafter also collectively called messages.

* * * * * * *

(10) The term "car service" in this act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this act.

* * * * * * *

(21) The commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carriers by railroad subject to this act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this act, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to

such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this act which refuses or neglects to comply with any order of the commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

Mr. ANDERSON. If there are no other questions I want to say that I am very much obliged to the committee for its very patient consideration.

The CHAIRMAN. The committee is very much obliged to you, Mr. Anderson, for the information you have given us. We will now hear Mr. Wells, of St. Paul.

STATEMENT OF MR. R. J. WELLS, SUPERVISOR OF THE STATE PUBLIC STOCKYARDS, SOUTH ST. PAUL, MINN.

Mr. WELLS. Mr. Chairman and gentlemen of the committee, as Representative Anderson has said, and as Mr. Sullivan has said, I speak from a different angle than perhaps other gentlemen that will appear here. I have no authority to speak for or against the general provisions of this bill. I have my own personal opinion, of course, but no authority to tell you what the people of Minnesota think about same. But I do know what they think in regard to the stockyard proposition.

The CHAIRMAN. The committee will be very glad to have you tell them about that.

Mr. WELLS. I know that the stock growers of Minnesota have for many years been endeavoring to work out some way whereby they could solve their marketing problem to better advantage. They appealed to the State legislature at different times to pass laws relating to regulation of stockyards at South St. Paul. The legislature took action.

The first act was an act requiring feed troughs to be placed in pens. Formerly hogs were fed by throwing corn on the floor of the pen. The corn thereby became filthy and, of course, the hogs did not get the full benefit of it, and after they were driven out the corn was carefully washed up and resold after being dried. We have stopped that evil by having hog troughs put in pens and requiring that corn shall be put into the troughs. We find that the hogs get a better fill and there is not so much corn to be resold.

In regard to supervision, the law says that the railroad and warehouse commission shall have authority. They have the power to license all dealers and speculators. They have the power to fix commission charges, to fix feed prices in the yards, corn, hay, and bedding. And they have general supervision in a sanitary way.

We have gone on under those laws and carried them into effect as far as we possibly could. The supervisor's office is maintained in the Exchange Building. We employ at the present time about 32 people who are looking after the yard proper. We do all the weighing of live stock. We have 18 scales. We have to keep about 19 to 20 weighers in order to take care of the 18 scales in case a weigher is sick or otherwise absent. Then we have four hog shrinkers as a buffer between packers and shippers.

Perhaps you do not know what a hog shrinker is. I will tell you briefly. Under the rules there is a shrinkage allowed for certain

classes of hogs, 70 pounds in the case of one class of animals and 30 pounds in the case of another class. The packer naturally wants to get all the shrinkage he can on his animals. The shippers quite naturally want to protect themselves. The shippers found it necessary to put in their own hog shrinkers or inspectors to protect themselves from the packer buyers. We keep four of them in the pens all day long. They are having a very, very good success in the work, and we are having no complaints whatever from either the packers or the shippers on that score.

The CHAIRMAN. What is the shrinkage?

Mr. WELLS. Seventy pounds in the case of stags and 30 pounds in the case of pigging sows.

The CHAIRMAN. What was the shrinkage before?

Mr. WELLS. It remains the same. It was a little higher four years ago, but was reduced by the action of the packers themselves.

The CHAIRMAN. It used to be 80 pounds and 40 pounds?

Mr. WELLS. Yes, sir.

Mr. TINCHER. The quarrel on that subject was not so much over the amount as over the classification, was it?

Mr. WELLS. No. It depends upon the classification of the hogs.

As I have stated, the supervisor's office is there in the Exchange Building and his office is open during market hours. If a shipper has any complaint whatever to make, he gets in touch immediately with the supervisor. In the office are clerks who are familiar with the entire workings of the yard, and immediately when a complaint is made they take it up and trace the complaint down and find out the actual facts, so that the shipper goes home the same day after his complaint has been adjusted.

I want to say something to you about sanitary conditions. When we went there the yards were in bad shape as far as sanitary conditions were concerned. We have installed a number of service stations, or the stockyards have under the orders of the commission, to provide for the welfare of the men and people doing business in the yards.

We have had the scale houses revamped so that the weigher can see the whole instrument at all times. We have had speaking tubes put in the houses and general improvements installed all over the yards.

As I have already explained, we have four inspectors constantly in the yards, patrolling the yards from morning till night. It is their duty to see that none of the rules and regulations of the commission are violated. Furthermore, they are to see that all the hay and grain is actually weighed out to the shipper or to the commission man and then to the shipper. It is their duty to see in the wintertime that the pens are not being overflowed with water from the watering troughs. You know that men are in the habit of going along and turning the water on for the stock and then driving the stock out, and the result often is, or was, I mean, that there is a frozen mass on the floors of the pens.

Two men are stationed at the unloading pens at all times to see that stock are not improperly treated. You know the average stockyard man does not care very much about exercising the proper care in the treatment of cattle. For instance, if a calf runs back into the car he is apt to hit him over the head or body, which injures the animal, and

also frequently injures the meat. They are there to protect that situation.

Further, as to the weighing department, we have 18 scales, and we have 18 scale men from the scale department of the State of Minnesota stationed in the yard at all times. If those scales, or any one of them, is out of balance 4 ounces to 1,000 pounds, or a pound in 4,000 pounds, the weighing thereon is immediately stopped.

We had occasion to condemn one scale entirely and tear it out. And we have practically found it necessary to reset every scale in the yard. A scale may be weighing correctly at 5,000 pounds, but if you move it an inch or so it may be wrong. All the scales when we went there had a 10-pound break on them. If you drive on a lamb that weighs 50 pounds or 60 pounds, it means you are guessing at its weight. So we had them install dinky scales, weighing down to actual pounds on which to weigh these small animals.

For every draft of animals that is taken over the scales there is a scale ticket issued in triplicate, one of which goes to the buyer, one to the seller, and the original is retained in our office as a record.

In the year 1920 we weighed over the scales 4,000,271 head of stock, 678,000 drafts, without a complaint ever coming to the office of an error in weight. Every weigher is bonded to the State of Minnesota in the sum of $5,000, and under our rules and regulations he is held personally liable for any mistakes he may make. That is, the bonding company is held liable for any mistake, and then the bonding company holds him if it can.

The commission has taken a valuation of the yards. They are just about completing that work now. The commission were working on the valuation of the real property when I left home a week ago, and I think they are about through with that. When that work is through we will have a complete valuation of the yards.

On the valuation as far as it had progressed on the 1st day of July, 1920, the commission issued its formal order fixing the prices of hay, grain, and bedding at the yards. The Lever Act being in effect the stockyards company claimed they were under the Government, and their contention is pending in the courts now. Of course, since the 3d of March that question does not apply. But I expect a decision will be handed down by the Supreme Court any day now, as it had been argued and submitted by the parties about a month ago.

In regard to the delivery of hay and grain to yards, when we went there we found all hay was sent out and put in the pens at 100 pounds to the bale. As to actual weight a bale would average along about 72 or 73 pounds. We require that hay shall go in the pens charged at the actual amount when weighed over the scales. Then we require every commission man to render to our office a report, on the 1st day of each month, showing how much hay, grain, and bedding he has charged his clients with—his shippers. Then we require the stockyards company to furnish us the amount of hay, grain, and bedding they have sold to those men. So that thereby we have a check on the situation. If we find any great discrepancy, if it amounts to very much, we immediately go and check back with the scales and with the commission firms.

Representative Anderson has told you about the liability of the South St. Paul yards. We assist in every way possible, the stock-

yards company, to fix liability in case of loss of hogs and cattle. Sometimes we find it is with the railroad company and sometimes with the stockyards company. They may unload cattle or hogs at a feeding station out in the country, at night or something of that kind, and in reloading may miss some of the animals or some may escape. The stockyards company, of course, is not liable for such animals. We take chute counts of those animals coming into the yards, and if we find the chute count does not agree with the shipper's count we follow those animals down through the yard and over the scales, and if it is the fault of the railroad company a claim is filed therefor.

Mr. Chairman and gentlemen of the committee, I am going to cut my remarks, because I want Mr. Sullivan to be given a few minutes of my time, if you will permit that. Representative Anderson has prepared an amendment, which reads as follows:

SEC. 405. The provisions of Title III shall not apply to any stockyard owner or market agency furnishing stockyard services at a stockyard in a State which has or may hereafter establish an agency authorized and empowered to regulate stockyard services or the rates or charges made therefor or the regulations and practices in respect to furnishing stockyard services to be established, observed, or enforced by a stockyard owner in such stockyard; nor shall the provisions of Title III apply to any stockyard owner, market agency, or dealer in a stockyard in a State which has or may hereafter establish an agency authorized and empowered to regulate the practices or devices used or employed by any such stockyard owner, market agency, or dealer in such stockyard: *Provided*, That this section shall not be held to limit the application of Title III to any stockyard owner, market agency, or dealer in respect to any matter of regulation not within the authority of such agency.

I want to say something in regard to the regulation of feed prices. Under the proposed bills as I have read them, or of some of them, there is notice to be given of a hearing whenever there is to be a change in the schedule of prices. We, in the South St. Paul yards, handle that matter by way of the commission making an order, or sometimes we get together with the stockyards company and get a reduction in rate when the market is fluctuating up and down. For instance, this last fall we found it necessary to make orders right along in relation to corn, in order to hold the selling price at the yards down within a proper range of the market price.

I have a petition here that was sent down during the last Congress, when you were hearing these same bills before, and with the permission of the chairman and the committee I will now read same:

ST. PAUL, MINN., *January 26, 1921.*

To the honorable House of Representatives and Senate of the United States of America:

Whereas there is located at South St. Paul, in the State of Minnesota, one of the largest and most important stockyards in the country, and that stock raisers in the State of Minnesota dispose of their stock to a large extent at such stockyard, employing for such purpose the various live-stock dealers and commission men located thereat; and

Whereas the Legislature of the State of Minnesota, for the protection of the interests of all stock raisers disposing of their stock at said stockyard, has enacted laws placing such stockyard and all of the commission men and dealers engaged in business thereat under the supervision and control of officials of the State of Minnesota; and

Whereas such State regulation has proven to be of great benefit to all persons disposing of their stock at said stockyards, and it is the earnest opinion of all of the signers of this petition that local regulation of such matters are much more beneficial to the interests of stock raisers than Federal regulation would be, and that the continuance of the regulation now provided by the State of Minnesota is essential for the protection of the stock-raising industry in said State; and

Whereas a bill is now pending in Congress which, if enacted in its present form, will subject stockyards to Federal regulation and may be construed to supersede the supervision hereinbefore mentioned of the State of Minnesota:

Now, therefore, the undersigned members of the House of Representatives and of the Senate of the Legislature of the State of Minnesota and other public officials hereby respectfully and earnestly petition your honorable bodies to exclude from the operation of said law the State of Minnesota and all other States wherein local regulation is provided by statute.

(Signed by Ole O. Sageng and 58 other State senators, and 57 members of the house of representatives, making 116 members of the house and senate of the State of Minnesota.)

Mr. WILLIAMS. What is the membership of your house of representatives?

Mr. CLAGUE. One hundred and thirty-one.

Mr. KINCHELOE. What is the ownership of the stockyards in South St. Paul?

Mr. WELLS. Swift & Co. are the controlling factor.

Mr. KINCHELOE. Do any other packers have any interest in those stockyards?

Mr. WELLS. Oh, I think so. Of course, Swift owns the majority of the stock, just as at Kansas City the Morris people own the majority and at Omaha the Armour estate, and at Sioux City and St. Joe the Swifts.

Mr. CLAGUE. Are the farmers satisfied with the way your State is handling the matter?

Mr. WELLS. Yes, the livestock shippers are. And in that connection I want to say that we are the greatest cooperative State in the Union. Ours is the State I believe that inaugurated the cooperative system among shippers. We have an association composed of several hundred shippers of live-stock. At their annual meeting this year they adopted a resolution indorsing and commending the work of the railroad and warehouse commission at the stockyards at South St. Paul. There is no question about the feeling of the people of the State of Minnesota, and I might say of the entire Northwest at least among those that are shipping to the South St. Paul market, because of the improvement in conditions there.

Let us take an instance: In having a complaint adjusted theretofore the man would go to the commission man and the commission man would send him to the stockyard, and a shipper would be shifted back and forth. Of course, the average shipper of live-stock is unacquainted with the ways of the yard, and the result was that he went home dissatisfied and condemning the yard and everything else. To-day he has a place where he can go and put his matter in dispute before an official of the State who will see that he gets justice if he is entitled to it, and get it at once.

Mr. PURNELL. Is that expense paid by the State or the shipper or by the stockyards company?

Mr. WELLS. The entire expense is paid out of what we call the State weighing fund.

Mr. PURNELL. What is the annual cost of your work there?

Mr. WELLS. About $60,000.

The CHAIRMAN. How long has this law been operating in Minnesota?

Mr. WELLS. Supervision came in 1919, and general supervision of weighing, licensing, etc., came the 1st of January, 1920.

Mr. PURNELL. How is the cost apportioned among the shippers?

Mr. WELLS. The cost is 2 cents for cattle and 1½ cents for hogs and 1 cent for sheep. I took 200 cards of the account sales to ascertain the cost, or, that is, how much the State got out of it and how much the yards got and how much the commission firms got—the actual cost in the yards independent of freight charges. I found that the State of Minnesota received 1½ per cent of the amount of that bill. Say it was $30. The stockyards company received 40 per cent, and the commission man 58½ per cent, and the State of Minnesota 1½ per cent. Our 1½ per cent looks pretty small for the service we render, and especially when you consider that our tickets alone cost us between $7,000 and $8,000 a year, and our hog shrinkers cost us $8,000 more.

Mr. RIDDICK. Does your organization have anything to do with alleged manipulation of prices?

Mr. WELLS. We have a State law on that.

Mr. RIDDICK. That does not come under your commission?

Mr. WELLS. No, sir; that is under the attorney general of the State.

Mr. KINCHELOE. By reason of that law preventing manipulation do your growers of stock get more money for their stock at the South St. Paul stockyards than they do at Chicago?

Mr. WELLS. No; I do not think so. I think prices are fixed largely on certain classes of hogs and cattle by how the packer feels on that particular day. On our stockers and feeders I think we are the greatest market in the United States, and there, of course, we have buyers ready to buy. And in the matter of hogs we have lights and light lights, and we have outside buyers buying them in for themselves. One firm is feeding on garbage about 5,000 head at Buffalo and about 5,000 at Detroit, and they come from our yards. They have the garbage contracts and buy all our lights and light lights that they can get hold of to ship to those places to feed them.

Mr. TINCHER. You heartily indorse the principle of the proposition that brought about legislation which resulted in the regulation of your stockyards at South St. Paul, don't you?

Mr. WELLS. Oh, yes.

Mr. TINCHER. You think it has had a wholesome effect?

Mr. WELLS. There is no doubt about that. When we went into the yards we were met by the greatest opposition. Our bills were fought bitterly in the legislature by the stockyards' representatives.

Mr. TINCHER. The greatest stock market there is in the world, the greatest stockyards in the world, are at Chicago. Assuming that the Illinois Legislature would not do as your legislature has done, there should be some legislation regulating them, shouldn't there? You agree to that principle, do you?

Mr. WELLS. One of the live-stock professors in the State agricultural school sent down to me and I furnished him with five sets of our laws to send out to different States, and Iowa has one set, and Illinois one set, and Kansas one set, and some other States.

Mr. TINCHER. We passed a law out in Kansas, but it did not do much good because our stockyards are over in Missouri. And I am afraid they will not pass any law in Missouri.

Mr. CLAGUE. When complaint is made to you at your yards at South St. Paul as a rule it is adjusted that day, isn't it?

Mr. WELLS. Oh, yes. The shipper goes home in the afternoon all fixed up. We are right in touch with every commission firm and with the stockyards company, and we are all in one building, and it does not take long to run down a complaint.

Mr. TINCHER. If we had the power to pass the necessary legislation as far as stockyards are concerned, and gave you authority to regulate the South St. Paul yards, you would regulate them the same as you do now, wouldn't you?

Mr. WELLS. Yes, sir; just the same. These laws have been the result of the consensus of opinion of the shippers in the Northwest meeting from time to time to devise laws. The stock growers and shippers are back of every one of these laws.

Mr. TINCHER. Admitting that legislation is necessary, either Federal or State, for the regulation of stockyards where there is not already legislation, and if your statement is even partially correct that the livestock market depends upon how the packer feels, it is just as necessary to pass some legislation regulating the packer as it is the stockyards, isn't it?

Mr. WELLS. Well, I have my own opinion on it.

Mr. TINCHER. You are in a pretty good position to know something about the matter.

Mr. WELLS. Of course, we are all selfish. We can not blame them for that. They are out there to buy the stock just as cheaply as they can, and the commission men are out there to get just as much for the stock as they can get.

Mr. TINCHER. You spoke of two classes of hogs, and that you had hog shrinkers to prevent too much shrinking. Before you inaugurated that system I suppose they docked hogs for some reasons that were not necessary to be docked?

Mr. WELLS. Yes, sir.

Mr. TINCHER. And they always determined that question in favor of the packer?

Mr. WELLS. Oh, yes; they did it about the same as you and I would do it if we were there ourselves in a similar capacity.

Mr. TINCHER. And the farmer shipping in his hogs to the stockyards is entitled to that protection?

Mr. WELLS. Oh, yes; certainly he is.

Mr. TINCHER. But hogs are shipped to lots of places where he does not have that protection?

Mr. WELLS. Of course. Every yard has its own rules and regulations where not otherwise regulated. There is no question that every stockyard in this country should be regulated.

Mr. KINCHELOE. Do you think there has been an increase in business there as the result of this law?

Mr. WELLS. Absolutely. We came from fifth place to fourth place.

Mr. KINCHELOE. Was that because of the law or an increase in the growing of stock?

Mr. WELLS. We get a good deal from southern Minnesota that formerly went to Chicago, and from other places. We are working all the time through these cooperative shippers to have them send their stock to South St. Paul. Another thing, we are in touch constantly by phone with the different shippers. I may get a message from a shipper saying that he has ordered cars for that morning and the railroad company failed to deliver them, and that his stock are in the pen and wanting to know what he shall do. I immediately

get in touch with the railroad company, and the next morning or the following day the cars are pretty sure to be there. I get assurance from the railroad company that they will be there, and I inform the prospective shipper over the phone, and he is ready to load.

We are constantly looking after loading facilities out in the country. The railroad and warehouse commission takes that up with the railroad companies to see that the shippers are afforded proper protection in the way of water. You know that hogs have to be sprinkled during hot weather, and when shipped they have to have watering stations. And we see that cinders are placed in the yards to keep them out of the mud, and a thousand and one things are coming up from day to day. One of these things may amount to very little in itself but in the aggregate they amount to a great deal if not properly attended to.

Mr. PURNELL. The statement that the prices paid depend largely upon the way the packers feel is very interesting to me, and really strikes at the heart of this investigation. I wonder if you are in position to give to the committee the benefit of any definite information you have along that line; any specific evidence of collusion on the part of any packers to control prices or to keep them down.?

Mr. WELLS. No; I have no evidence of that kind. In fact, I have paid very little attention to that subject. But I can tell you any afternoon if Mr. Hormel, of Austin, Minn., has been on the market that day?

Mr. PURNELL. How can you do that?

Mr. WELLS. Because if he comes in and ships a couple of thousand hogs, as he usually does, I know that the market is up from 15 cents to 40 cents a hundred.

Mr. PURNELL. What is the cause of his coming there and buying that day?

Mr. WELLS. He has to come there to get his hogs. At Austin, in the first place, they have the Hormel plant. The Wilson people have come in on the west side of the State, in the pipestone country, and commenced to buy hogs very liberally, and they thereby cut off a good deal of Hormel's supply in that territory. And all he has is what is in his immediate territory and he comes to South St. Paul to get what he needs to keep his plant running.

Mr. PURNELL. He is an independent packer?

Mr. WELLS. Yes, sir. But he buys nothing but hogs.

Mr. PURNELL. Is there any general complaint made to you by the shippers of the prices they are paid?

Mr. WELLS. No; they do not express it in that way. They use much stronger language.

Mr. RIDDICK. From your experience and observation would you say that there has been competition or hasn't been in the buying at the South St. Paul stockyards?

Mr. WELLS. I do not think so.

Mr. PURNELL. What was your answer to that question? You say you do not think so. Do you mean that there has not been competition?

Mr. WELLS. No, sir.

Mr. RIDDICK. What do you base that statement on?

Mr. WELLS. For instance, there is a bunch of several thousand cattle in the long pens. You will find a buyer for one plant going along, and he is offering 8 cents to 9 cents a pound for them, and after

a while another buyer comes along and says "I will give you 8 cents or 9 cents a pound." I do not see any rise in price as a result of the two bids.

Mr. RIDDICK. Are there only two packers buying there?

Mr. WELLS. There are two or three big packers and two or three independent packers that buy, only independents in the State.

Mr. VOIGT. When Hormel comes along the price goes up?

Mr. WELLS. Yes, sir.

Mr. VOIGT. Do you attribute that to the fact that an additional man comes into the market, or do you have a suspicion that the big packers put up the price on Hormel?

Mr. WELLS. They are forced to do it. His order buyers are going to fill the order that day and ship them out, and they may have to pay more money to do it.

Mr. VOIGT. Why can not Hormel get what he wants by bidding 5 or 10 cents over the bid of the big packers?

Mr. WELLS. Because the other fellows want those hogs, too.

Mr. TINCHER. You do not have to see Hormel in order to tell that he has been there. You can tell by the market?

Mr. WELLS. Yes, sir.

Mr. TEN EYCK. Those independent packers that bid there every day, do they always bid the same price?

Mr. WELLS. No, sir; they buy off-grade stuff usually and buy it as cheaply as they possibly can.

Mr. TEN EYCK. They are not in competition with the other people at all?

Mr. WELLS. No; these other fellows are not really in competition. They do not kill a great many head a day, and usually it is a grade of stock that the other packers are not anxious for.

Mr. PURNELL. How do the prices paid at your market compare with the prices the same day at other markets, such as Chicago and Kansas City?

Mr. WELLS. They generally run along about the same.

Mr. KINCHELOE. You mean that is on the day when the independent packers are not there for hogs?

Mr. WELLS. Yes, sir. It is often remarked in the office "Hormel is in to-day."

Mr. PURNELL. Does he buy a particular kind of hog?

Mr. WELLS. Yes, sir; he tries to get 200-pound hogs.

Mr. PURNELL. Is it possible that he may have a particular trade that he caters to which will pay a little more for the product?

Mr. WELLS. Possibly that is true. But the same class of hogs probably would go in to Armour or Swift. They probably have the same trade that he has which would call for that class of hogs.

Mr. VOIGT. It is your contention that there is no competition between the big packers in your market?

Mr. WELLS. Oh, I do not think there is.

Mr. RIDDICK. What proportion of the cattle that go into the South St. Paul stockyards are not sold out to the packers but go out to the country to be fed?

Mr. WELLS. Well, that varies according to the season of the year.

Mr. RIDDICK. Is it not a considerable portion at some seasons of the year?

Mr. WELLS. Well, we had 75,000 cars in last year of all classes of stock, and I should judge that 25 per cent of those went out for feeding

purposes. Last year we had a great many Canadian cattle, but they do not come there any more on account of the increase in freight rates. They go down over other lines, and we do not get them any more. There are some that go through to Chicago as a rule.

Mr. RIDDICK. I know, as a matter of fact, that a great many thousand cattle do go out of the South St. Paul market to feeders.

Mr. WELLS. Yes, sir.

Mr. RIDDICK. And the people who buy those cattle have to buy them in competition with the packers?

Mr. WELLS. Yes, sir.

Mr. RIDDICK. And very sharp competition at times?

Mr. WELLS. Yes, sir.

Mr. RIDDICK. You think they would amount to 25 per cent of all your receipts?

Mr. WELLS. Yes, sir.

The CHAIRMAN. Have you a copy of your rules and regulations, and also of the act?

Mr. WELLS. I have everything except the weighing. I have not a copy of the rules and regulations promulgated by the railroad and warehouse commission with me. I think I gave you a copy in your office. I have all of the laws relating to the matter, except the law relating to weighing and supervision of scales.

The CHAIRMAN. What is the pleasure of the committee as to making them a part of the record?

Mr. TINCHER. I think they ought to go into the record.

The CHAIRMAN. Without objection it is so ordered.

Mr. WELLS. I will now hand them to the reporter.

(The laws referred to follow:)

LAWS RELATING TO THE RAILROAD AND WAREHOUSE COMMISSION, ENACTED AT THE LEGISLATIVE SESSION OF 1919.

[Chapter 231, H. F. No. 148. An act requiring stockyards at terminal markets to be provided with feeding and water troughs.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. Sanitary watering and feeding troughs at stockyards: Every stockyard at a terminal market in the State of Minnesota at which live stock is received or shipped shall be provided with sanitary watering troughs of iron, concrete, or other sanitary material, and every yard, pen, or inclosure at any such terminal in which hogs are received or shipped shall, in addition to the watering troughs above specified, be provided with feeding troughs, within six months after the passage of this act.

SEC. 2. Violation a misdemeanor: Any firm, person, or corporation, violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $10 nor more than $100 for each 30 days' continuance of such violation, and it shall be the duty of the railroad and warehouse commission to see that the provisions of this act are enforced, and it may specify the size and number of each kind of troughs to be provided for the different stockyards in the State, and shall enforce the use of such troughs.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved April 12, 1919.

[Chapter 461—H. F. No. 933. An act defining and regulating public stockyards, placing them under the supervision and control of the railroad and warehouse commission, and providing penalties.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. "Public stockyards" as used herein means all stockyards into which live stock is received for the purpose of exposing the same for sale or for feeding the same and doing business for compensation. "Person" as used herein includes any person, copartnership, association, or corporation doing business in this State. "Operator" as used herein means any person owning or operating a public stockyards in this State. "Commission" as used herein means the railroad and warehouse commission. In construing this act gender and number may be disregarded.

SEC. 2. The railroad and warehouse commission is hereby vested with the same jurisdiction and supervisory power over public stockyards doing business in this State as it now has over railroad companies.

SEC. 3. Every public stockyard operator shall annually, on the 31st day of December, file with the commission, on a form prepared by it, a statement certified and sworn to, stating the number of head of cattle, calves, hogs, sheep, horses, and mules received in such stockyard during the preceding year, and such other facts as the commission may require.

SEC. 4. It shall be the duty of every public stockyard operator to furnish reasonable, adequate service and facilities for the accommodation of the public, and the rates, charges, and prices of such stockyards for the services performed by it shall be fair and reasonable. All unreasonable and excessive rates, charges, and prices are hereby declared unlawful.

SEC. 5. Within 60 days after the taking effect of this act it shall be the duty of every public stockyard operator to forthwith file with the commission a schedule of its rates, charges, and prices for driving, watering, feeding, yarding, weighing, and caring for stock and for every kind of service performed by it, together with all rules and regulations used in the conduct of the business of public stockyards, all of which shall be kept on file by the commission and shall be open to public inspection. The commission may require each such operator to post for public inspection at designated places so much of said schedule and regulations as it deems necessary for the information of the public.

SEC. 6. Whenever such rates, schedules, or regulations are found to be unreasonable by the commission, said commission shall, upon its own motion, or upon complaint, prescribe reasonable rates, charges, and regulations to supersede those found unreasonable, and such new rates, charges, or regulations shall be filed in place of those superseded. No charges, rates, or regulations filed with the commission shall be changed by any such operator without an order of the commission sanctioning the same. Proceedings before the commission shall be commenced and conducted in the same manner that proceedings affecting railroads are now commenced and conducted and appeals from orders of the commission may be taken in the same manner and to the same extent as appeals may be taken from orders of the commission affecting railroads.

SEC. 7. Whenever, in the judgment of the commission, any public stockyard fails in any respect to comply with the law, or any repairs or improvements are necessary, or reasonable addition to or change of its stockyard facilities, or any change in the mode of operating such stockyards or conducting its business will promote the security or convenience of the public, said commission by a written order to be served as a summons in a civil action shall require compliance with such law or the making of such repairs, additions, or change. In case of disobedience to said order said commission may cause an action to be commenced for the enforcement thereof.

SEC. 8. Said commission is hereby authorized and empowered to adopt and enforce reasonable rules and regulations governing the sanitary conditions in such public stockyards, the care of the animals therein, the receiving and shipping of the same, and the general service performed by such stockyards.

SEC. 9. It shall be unlawful for any public stockyards operator to sell and deliver at the rate of less than 2,000 pounds for a ton of hay or any part thereof, or to sell and deliver less than 70 pounds of corn in the ear for a bushel or less than 56 pounds of shelled corn for a bushel.

SEC. 10. It shall be unlawful for any public stockyards operator or any agent or employee to prohibit or prevent the owner or his representative of any dead stock in such yard from selling or otherwise disposing of such stock.

SEC. 11. Any persons violating the provisions of this act shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished accordingly.

SEC. 12. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 13. This act shall take effect and be in force from and after its passage.

Approved April 25, 1919.

[State of Minnesota—Forty-second session. H. F., No. 25. Introduced by Messrs. Wicker, Gerlich, Wilkinson, Greene, Norton, Rako, Neuman, Hitchcock, Moen, and Nordgren, Jan. 5, 1921. A bill for an act declaring chamber of commerce, board of trade, or exchanges where the members thereof deal or trade in grain, live stock, or other farm products to be public markets, to regulate the membership thereof, and the rights of members therein.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. Every chamber of commerce, board of trade, or exchange maintaining or operating a regular place of business or trading room for members only in which the members buy, sell, or exchange grain, live stock, or other farm products for themselves or for others is hereby declared to be a public market, subject to the provisions of this act.

SEC. 2. Every such market, whether heretofore or hereafter organized, shall be open to membership, with equal rights and privileges with all other members, to any person, firm, company, corporation, or association desiring to deal in or trade in the commodity or commodities usually dealt in on such market, who shall make application for membership and whose methods of business operation or plan of organization shall not conflict with or contravene any reasonable rule, regulation, or by-law of such market. All members shall be required to comply with all reasonable rules, regulations, and by-laws of such organization, which may include the payment of a membership fee and reasonable assessments equally applicable to all members. The words "company," "corporation," or "association" herein designated shall include cooperative corporations or associations organized under the laws of the State of Minnesota. Any rule, regulation, or by-laws of such market which shall be designed or construed as controlling, limiting, or modifying the articles of incorporation, constitution, or by-laws of any association, company, or corporation in the distribution of its profits to its stockholders and members shall be deemed to be unreasonable.

SEC. 3. Every such chamber of commerce, board of trade or exchange which shall adopt any rule, regulation, by-laws or order of whatever kind or form, or which makes any order in violation of the provisions of this Act, or which shall refuse or unreasonably delay the admission of any such applicant to full and equal membership in any such organization, or which shall refuse to trade or deal with any member or permit any member to refuse so to deal with any other member on an equal basis with all other members, or which shall adopt, prescribe, construe, or apply any rule, order or regulation which shall have the effect of, or tends to, avoid or violate any of the provisions of this act is hereby declared to be a monoply in restraint of trade and guilty of a felony and may be prosecuted as provided by law, and further trading in said chamber of commerce, board of trade or exchange, either by the organization itself or any member thereof shall be unlawful.

SEC. 4. Whenever any such chamber of commerce, board of trade or exchange or any officer or agent thereof shall violate any of the provisions of this act, the attorney general shall prosecute such organization, officer or agent thereof for such violation, and shall, by quo warranto, institute proceedings in the name of the State of Minnesota, to dissolve such organization and prevent its further operation, and the said attorney general shall also, by injunction, restrain the organization and all members thereof from thereafter continuing in such violations and from any further trading in such market, either directly or indirectly.

SEC. 5. This act shall take effect from and after its passage.

[State of Minnesota. Forty-second session. S. F., No. 510. Introduced by Messrs. Cumming, Naplin, and Johnson, February 16, 1921. Referred to committee on railroads. Reported back February 25, 1921. A bill for an act to amend section 8956 of the General Statutes of 1913, relating to the transportation of live stock.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. All persons, other than live-stock commission merchants, commonly known as dealers, speculators, traders, or scalpers, engaged in the business of buying and selling live stock at any public stockyards, shall for the purposes of this act be known as "live-stock dealers." Every such live-stock dealer, before engaging in such business, shall first procure a license from the railroad and warehouse commission, hereinafter called the commission, and shall file with the commission, and acceptable to the commission, a surety bond to the State of Minnesota in the sum of $1,000. Such bonds shall be continuous surety bonds and be conditioned for the faithful discharge of all duties as a live-stock dealer operating under this act and full compliance with the law of the State and rules and regulations of the commission relative thereto. The said commission may provide rules and regulations relating to said live-stock dealers in the buying and selling of live stock at such public stockyards.

SEC. 2. Licenses shall only be issued upon written application which shall state the name of the individual, firm, or corporation, and each member of the firm or officer of the corporation, the point or points at which the applicant intends to do business, post-office address, and the location of the general office of such applicant. All licenses shall expire upon the 31st day of December following the date of issuance. Such license shall be posted in a conspicuous place in the office of the licensee. The fee for each license must accompany the application and shall be $10. All license fees shall be deposited in the State treasury, to be credited to the live-stock weighing fund, and paid out only on order of the commission and the auditor's warrant. The interest received from deposits of said moneys shall be credited on the first of each month to such fund, and notice of the amount of such interest be sent to the commission.

SEC. 3. Any person, persons, firm, or corporation engaged in the business of buying and selling any live stock as such dealer, who fails or neglects to comply with any of

the provisions of this act or any of the rules and regulations of the commission therein provided for, shall be guilty of a misdemeanor, and upon conviction thereof in any court having competent jurisdiction shall be punished by a fine or imprisonment. The commission is hereby authorized either upon such conviction or upon its own findings, after investigation and hearing, if the facts warrant it, to cancel the license of any person, persons firm, or corporation guilty of any violation of law, subject to the right of the licensee to appeal from such order to the court. Where a license has been canceled and the order of the commission canceling same is sustained by the court, in case of appeal, the commission may refuse to issue any license to such person, persons, firm, or corporation for the term of one year.

SEC. 4. The commission shall have the right to examine any and all books, records, and accounts of any live-stock dealer. Any live-stock dealer and any agent or employee in charge of such books, records, or accounts who shall fail or refuse to submit such books, records, or accounts for the examination of said railroad and warehouse commission shall be guilty of a misdemeanor.

SEC. 5. Exemptions: The term "live stock" shall include cattle, sheep, hogs, horses, and mules. Nothing in this act shall apply to any person, persons, firm, copartnership, association or corporation, who ship their own consignment of live stock, or who shall buy live stock for their own use or for the purpose of feeding.

SEC. 6. This act shall take effect and be in force from and after its passage.

[State of Minnesota. Forty-second session. S. F., No. 291. Introduced by Messrs. Bonniwell and Kuntz, January 26, 1921. Referred to committee on agriculture and agricultural markets. Reported back February 18, 1921. A bill for an act relating to live-stock exchanges and to the rules and regulations of such exchanges.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. Any rule, by-law, regulation, or requirement of a live-stock exchange or association maintaining a place of business for its members where any live stock is bought, sold, or exchanged for themselves or for others, to the effect that no member thereof shall buy, sell, or exchange live stock with a person who is not a member thereof, is hereby declared to be contrary to public policy and is made null and void, and the dealing in live stock by a member of such an association with a nonmember shall not work any penalty to such member, nor shall such dealing be cause for a cancellation or forfeiture of membership in such live-stock exchange or association.

SEC. 2. Whenever any such live stock exchange or association, or any officer or agent thereof, shall violate any of the provisions of this act, the attorney general shall prosecute such organization, officer or agent for such violation, and shall, by appropriate legal proceedings in the name of the State, ask the dissolution of such organization and prevent its further operation, and said attorney general shall also, by injunction or other appropriate legal remedy, restrain such organization and all members thereof from thereafter continuing in such violations and from any further trading in such exchange or association either directly or indirectly.

SEC. 3. This act shall take effect and be in force from and after its passage.

[State of Minnesota. Forty-second session. H. R., No. 954. Introduced by Messrs. Darby and Grant, March 11, 1921. Referred to committee on dairy products and live stock. Reported back March 24, 1921. A bill for an act to amend section 2 of chapter 39, Special Session Laws of 1919, relating to the licensing by the railroad and warehouse commission of all commission merchants, brokers, factors or agents engaged in handling, buying, selling or soliciting consignments of live stock at any public stock yards, and to fix the commission that may be charged by them, providing rules and regulations and providing penalties.]

Be it enacted by the Legislature of the State of Minnesota:

SEC. 1. Section 2 of chapter 39, Special Session Laws of 1919, relating to the licensing by the railroad and warehouse commission of all commission merchants, brokers, factors or agents engaged in handling, buying, selling or soliciting consignments of live stock at any public stock yards, and to fix the commission that may be charged by them, providing rules and regulations and providing penalties, is hereby amended to read as follows:

"SEC. 2. On or before the 1st of December in each year the persons specified in section 1 of this act shall make an application to the commission in writing for a license to conduct the business of a live-stock commission merchant. This application shall set forth the name of the individual, firm, or corporation and each member of the firm or officer of the corporation, the point or points at which the applicant intends to do business, post-office address, and the location of the general office of such applicant. A separate bond and license shall be required for each point at which such applicant intends to do business.

"On or before the 1st of January each year the commission shall furnish such applicant with a license good for one year, such license to be posted in a conspicuous place in the office of the licensee. The fee for each license must accompany the application for license and shall be $25. All moneys so collected shall be deposited in the State treasury and known as the 'Live-stock (commission) weighing fund,' and all

moneys at present credited to the live-stock commission fund to be transferred to the live-stock weighing fund, and paid out only on order of the commission and the auditor's warrant. The interest received from deposit of said moneys shall be credited on the first of each month to such fund, and notice of the amount of such interest shall be sent to the commission.

"Such license may be revoked by the commission for cause upon notice and hearing."

SEC. 2. This act shall take effect and be in force from and after its passage.

[State of Minnesota. Forty-second session. S. F., No. 356. Introduced by Messrs. Bonniwell and Kuntz, February 2, 1921. Referred to committee on agriculture and agricultural markets. Reported back February 4, 1921. A bill for an act to amend section 3 of chapter 40, Special Session Laws of 1919, entitled "An act to provide for the weighing of live stock at public stock yards, under the jurisdiction of the railroad and warehouse commission," and to amend the title by inserting the words "Supervision and" before the word "weighing" where used in the title.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That the title of chapter 40, Special Session Laws of 1919, be amended to read as follows:

"An act to provide for the supervision and weighing of live stock at public stock yards under the jurisdiction of the railroad and warehouse commission."

SEC. 2. That section 3 of chapter 40, Special Session Laws of 1919, be and hereby is amended to read as follows: "The commission shall prescribe the fee necessary to cover the cost of supervision and weighing to be assessed and collected in such manner as the commission may prescribe. All moneys so collected shall be deposited in the State treasury and known as the 'live-stock weighing fund,' and paid out only on order of the commission and the auditor's warrant. The interest from such deposits of said moneys shall be credited on the 1st day of each month of such fund, and notice of the amount of such interest shall be sent to the commission."

SEC. 3. This act shall take effect and be in force from and after July 1, 1921.

[State of Minnesota. Forty-second session. S. F., No. 472. Introduced by Mr. Bonniwell, February 11, 1921. Referred to committee on agriculture and agricultural markets. Reported back February 19, 1921. A bill for an act to provide for the sanitation, disinfection, and cleaning of railway cars used for the transportation of live stock, and prescribing penalties for the violation thereof.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. It shall be the duty of every railway company operating a railroad within this State to cause every railroad car used in the transportation of live stock in this State to be properly and thoroughly cleaned by removing all litter, manure, and refuse from such car once in each month between the 1st day of March and the 1st day of December of each year.

SEC. 2. The State live-stock sanitary board is hereby authorized to make reasonable rules and regulations for the cleaning and disinfection of cars used for the transportations of live anmals within the State The said board shall furnish from time to time to each railway company operating a railroad within this State copies of said rules. It is hereby made the duty of each such railway company to obey each and every one of said rules.

SEC. 3. Any railway company violating any of the provisions of this act shall be guilty of a misdemeanor and shall, on conviction thereof, be fined not less than $50 nor more than $500.

SEC. 4. Chapter 41, General Laws 1915, is hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

[State of Minnesota. Forty-second session. H. F., No. 195. Introduced by Messrs. Bendixen and Wicker, Jan. 14, 1921. Referred to the committee on grain and warehouse. Reported back Jan. 19, 1921. A bill for an act to provide for licensing by the railroad and warehouse commission of all persons commonly known as dealers, speculators, traders, or scalpers, other than live-stock commission merchants, engaged in the business of buying and selling live stock at any public stockyards; to provide rules and regulations and penalties for violations.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That section 8956 of the General Statutes of 1913, is and the same is hereby amended so as to read as follows:

"SECTION 8956. Every person who shall carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which such animals can both stand and lie down during transportation, and while awaiting slaughter; every person who shall carry or cause to be carried upon a vehicle or otherwise any live animal having feet or legs tied togather, or in any other cruel or inuman manner; and every person or corporation engaged in transporting live stock who shall detain the same in cars or compartments for more than 28 consecutive hours without unloading the same in a humane manner, into properly equipped pens for rest, water and feeding for a period of at least five consecutive hours, unless requested to do so as hereinafter provided, or unless prevented by storm or unavoidable

causes which can not be anticipated or avoided by the exercise of due diligence and foresight, or shall permit the same to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other shall be guilty of a misdemeanor: *Provided*, That upon the written request of the owner or person in custody of that particular shipment, which written request shall be separate and apart from any printed bill of lading, or other railroad form, the time of confinement may be extended to 36 consecutive hours."

SEC. 2. This act shall take effect and be in force from and after its passage.

[State of Minnesota. Forty-second session. H. F., No. 573. Introduced by Messrs. Grant and Bendixen, February 8, 1921. Referred to committee on grain and warehouse. Reported back February 8, 1921. A bill for an act authorizing the railroad and warehouse commission of the State of Minnesota to regulate the distribution of railroad cars during times of shortage.]

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. The railroad and warehouse commission of the State of Minnesota is hereby given full power and authority, and it is hereby made its duty, after having given reasonable notice and upon hearing being had, to make, publish, and inforce from time to time such reasonable and just rules and regulations for the distribution of cars at stations for the transportation of live stock, grain, and other farm products, among the shippers whether located upon a certain railroad line or lines, or customarily dependent upon such railroad line for their car supply.

SEC. 2. During any period when the supply of cars available for such service does not meet the requirements of the shippers, it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such shippers to the extent that cars are available, and to count each and every car furnished to or used by such shippers against such shippers.

SEC. 3. Failure or refusal to do so shall be unlawful, and in respect to each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing, upon conviction, shall be fined $100 for each offense: *Provided, however*, That when necessity is found to exist, of which the commission is advised, either by its own investigation, which it may make at any time, or by hearing on complaint of any shipper or railroad company, the commission may, by special order, require the railroad company on whose railroad such necessity is found to exist to depart to the extent provided in such order, from the application of this act or any rule or rules formulated and established under the same.

SEC. 4. This act shall take effect and be in force from and after its passage.

Mr. TINCHER. The packers do not buy stockers and feeders on your market?

Mr. WELLS. Well, they do in a way. We are different from any other market in the West for this reason, that we have no corn-fed beef or finished beef.

Mr. TINCHER. But if they buy them they buy them for killing purposes?

Mr. WELLS. Yes, sir.

Mr. TINCHER. There is really no competition, or it is not supposed that there is competition, between the packer and the man buying for stocking or feeding purposes?

Mr. WELLS. Well, I will tell you about that. This is the way the thing is handled: All stockers and feeders are usually put over to the speculator. He usually comes along and buys them and puts them into pens and then he siezes them up and picks out the best ones, and replants them in the yards and sells them to the packers.

Mr. TINCHER. And sells the balance to the stockers and feeders?

Mr. WELLS. Yes, sir.

Mr. TINCHER. And so there is really no competition there?

Mr. WELLS. No, sir.

Mr. TINCHER. If you had to depend upon that for the principal market it would be different?

Mr. WELLS. Oh, yes.

The CHAIRMAN. Do those rules and regulations cause the packers to incur any considerable extra expense?

Mr. WELLS. Well, I do not know about that.

The CHAIRMAN. Have there been any complaints on the part of packers or commission men against the Minnesota act?

Mr. WELLS. Yes, sir; there were complaints made against the act, but not against our commission. There are two cases pending in the courts now, for about $200,000, awaiting a decision by the Supreme Court. We fixed the commission charges, and when I say "we," I mean the railroad and warehouse commission, we fixed the amount to be charged upon the selling and buying of live stock. We fixed the same on the basis of a comparative sheet of all the markets in the West. We took all the commission charges of all the markets and from them made a comparative sheet and found that the South St. Paul yards were about $2 higher than any other market, so we reduced that $2 a car.

The CHAIRMAN. What was the commission before?

Mr. WELLS It runs along about $14 to $20, or, I should say, $14 to $18 a car. The commission men raised the question that they were under the Lever bill, they so drew their pleadings in their action in the courts, setting up the contention that the State had no jurisdiction whatever over them. In that respect the situation at South St. Paul is peculiar. At Kansas City and Chicago there are suits pending in the courts, and they deny that they are under any Government control whatever. But in South St. Paul they set up the contention that they are under Government control. That suit is being tried in the Supreme Court now.

They afterwards applied to the Secretary of Agriculture, or to the Bureau of Markets, for leave to raise their commission. The bureau, or the Secretary, denied their request. That placed them outside the Government, and they were outside the State before. Nevertheless, they went on and raised their charges from $2 to $8 a car, and those are the rates they are charging to-day. Under our stipulation as filed in the courts all those moneys are deposited in banks subject to the decision of the court.

Mr. KINCHELOE. That is, the amount of the overcharge?

Mr. WELLS. The excess charges.

The CHAIRMAN. You spoke of speculators. Have you any regulations as to such transactions?

Mr. WELLS. Every one of them is licensed since the last legislature. Every one is under bond to the State of Minnesota, the same as the commission men, and are licensed by the railroad and warehouse commission.

The CHAIRMAN. Have you any regulation as to selling direct to a country buyer?

Mr. WELLS. We have now. We have just passed what we call the open market bill. That bill provides that any exchange that attempts to enforce any rule of their exchange whereby they fine a member for dealing with any outside party, is guilty of an offense against the laws of the State of Minnesota, and it becomes the duty of the attorney general of the State to bring an action to dissolve the exchange. I notice since I came down here that they have brought a test case, and the same is now in court.

The CHAIRMAN. I understood you to say that about 25 per cent of all cattle coming into the South St. Paul stockyards are sold direct to the country?

Mr. WELLS. Yes, sir.

The CHAIRMAN. Do you know of any regulation as to that, or do you need any? The contention is that the practice in some markets is not to sell direct to the country buyer, but that the cattle must go through a speculator. Have you anything of that kind in your yards?

Mr. WELLS. The speculator, you know, is a member of the exchange up there, so the same law would apply to him. They are allowed to deal with any person they want to without fear of being fined.

The CHAIRMAN. That is not covered by a regulation of your commission?

Mr. WELLS. No, sir; it is covered by law.

The CHAIRMAN. You have no authority to regulate them in that respect?

Mr. WELLS. No, sir; except that the State law regulates that matter now.

The CHAIRMAN. Have you a copy of that?

Mr. WELLS. Yes, sir; and it has been put in the record.

Mr. VOIGT. Can a stranger come into your yard there and buy cattle?

Mr. WELLS. Yes, sir; or any stranger can come in and sell cattle.

Mr. VOIGT. I mean must he execute his business through some broker, or can he go right in there and make his purchase and turn his money over to the owner of the cattle?

Mr. WELLS. Certainly. That is what we call the open market bill. That is one that has just been passed by the State legislature. It allows any person to go in there and deal with any member of the exchange without being fined. You understand the situation now perhaps, and it is this: Here are commission men and speculators who all form a combination I might say on the exchange. Their rules provide that any man who deals with anybody outside will result in a fine being imposed on the speculator of from $250 to $1,000, and their exchange membership forfeited. That makes a close, tight wire fence around that body. Say you are a farmer, and you come in there and you unload your cattle. Say you have put in four years in building up a carload of cattle to ship to the market. You come in there and find that half of your carload of cattle are killers that the packers want and the other half are stockers and feeders. Under their plan you could not deal with any man on that market, unless you might find a farmer outside that you could deal with. And if you did they would not now dare deal with you.

Mr. THOMPSON. But this open market law that has been passed prevents all that?

Mr. WELLS. Yes; you can put half of your cattle, perhaps feeders, into a pen and sell them.

Mr. KINCHELOE. That is the law that they are testing now?

Mr. WELLS. Yes, sir.

Mr. VOIGT. Is the shrinkage an arbitrary amount that is taken off an animal after it has been put over the scales?

Mr. WELLS. Yes, sir.

Mr. VOIGT. Is it the same for all animals of a given class?

Mr. WELLS. Yes, sir.

Mr. KINCHELOE. Regardless of how long they have been in the yards?

Mr. WELLS. Oh, they are never in the yards but one day. The yards are cleaned up each day, of hogs.

Mr. THOMPSON. Who fixes that shrinkage?

Mr. WELLS. Our State commission and the packers and the shippers agree. In case of a failure to agree there is an appeal to the appeal board.

Mr. THOMPSON. Suppose a hog scales 200 pounds actual weight?

Mr. WELLS. All right.

Mr. THOMPSON. Then the man who ships that hog is not paid for 200 pounds but is paid for a less amount?

Mr. WELLS. Yes, sir.

Mr. TEN EYCK. That is to balance the difference between the live and dead weights?

Mr. WELLS. Yes. But there is no question about that. You take a hog in a certain condition and he will not dress out.

Mr. CLAGUE. I do not think Mr. Wells has made that matter clear to you. He meant only on certain hogs.

The CHAIRMAN. How do you fix that shrinkage?

Mr. WELLS. I mean this, that if a certain class of hogs come in there, for instance one or two in a carload, it is the duty of the inspector to let it go through without shrinkage or to shrink it according to his judgment.

The CHAIRMAN. And if the packer is not satisfied with that decision he has the right of appeal?

Mr. WELLS. Yes, sir.

The CHAIRMAN. All right.

Mr. WELLS. If there is nothing further I thank you very much indeed for your hearing of me.

The CHAIRMAN. And we wish to thank you for the information which you have given us.

Mr. WELLS. Mr. Chairman, Mr. Sullivan is going to St. Paul to-night, and if you could hear him for about five minutes I would thank you. One of the gentlemen present here has asked me to correct the record so that it will show that the packers are not members of the exchange at South St. Paul. That is true.

The CHAIRMAN. We will be very glad to hear Mr. Sullivan.

STATEMENT OF MR. GEORGE H. SULLIVAN, OF STILLWATER, MINN.

Mr. SULLIVAN. Mr. Chairman and gentlemen of the committee, as indicated by Mr. Wells our only interest in the pending legislation is that we may be permitted to preserve intact the system of stockyards regulation now provided by the laws of the State of Minnesota.

The reasons for that request are (1) that the farmers and shippers of the State have confidence in the local system of the regulation of our stockyards. (2) It appears also that the commission men have recognized that there is some advantage to them in this regulation, because they have now commenced to advertise the fact that the South St. Paul stockyards are under the regulation of the State of Minnesota. They have no doubt that because of that situation there is an advantage, for where a shipper has an opportunity to ship to one of two markets by reason of existing freight rates, they find the

shippers prefer the South St. Paul stockyards or a stockyards that has this regulation.

As indicated by the many instances given to you by Mr. Wells, you can see that the shipper is benefited in many ways. Some of these benefits perhaps are not very great in themselves, but in the aggregate the shipper goes to that market feeling that he is under the protection of the State and that there is a State official there to aid him in the solution of any and every difficulty that arises. It has produced a great improvement in the actual conduct of the yards from the shipper's standpoint.

As alluded to by Mr. Wells, there has been a great cooperative movement going on in the State of Minnesota, the idea of which is to permit the farmers of Minnesota to market their products and to absorb as much as possible of what they have heretofore thought was too great a spread between the selling price by the producer of his product and the selling price by the middle man, and the final selling price to the consumer.

We passed a number of laws during the last session of the legislature for the purpose of furthering the cooperative movement. It is the idea of many of our leading people who have studied cooperative farm movements, particularly with reference to marketing products, that there is room for a vast improvement in the marketing of live stock of all kinds. It is thought that cooperation, that the cooperative movement, may go much further than it is to-day. We believe that we can solve the problem of bringing the farmer closer to the packer and of making a better feeling exist between them if our local regulations are permitted to remain intact.

We have not been led to increase our confidence in Federal regulation where local regulation is permissible and can adequately cover the subject, by reason of our experience, particularly in the grading of spring wheat. That is a subject that has been taken over for the last four years at least by the Bureau of Markets of the Department of Agriculture, and the way they have handled it is very unsatisfactory to us.

And our State and the States of North and South Dakota are practically a unit to-day against the existing grades established by the Bureau of Markets. We have come down here and begged that bureau and begged the Secretary of Agriculture to give us some relief toward a simplification of those grades.

I merely allude to that because it is indicative of the fears we in Minnesota have that if you deprive us of our State control, or if you go on and regulate the stockyards in our State by Federal regulation, it may have a somewhat similar result.

We believe that our bureau, at the head of which stands Mr. Wells, understands the problem of regulating the stockyards of Minnesota, understands the needs of our farmers and shippers, and in that respect would handle the situation better than could any bureau established in Washington. And we wish you would give earnest consideration to the adoption of the amendment suggested by Mr. Wells as drafted by Representative Anderson.

Mr. TINCHER. Before you passed any law regulating the stockyards at South St. Paul the conditions were practically intolerable there, weren't they?

Mr. SULLIVAN. Yes; they were.

Mr. TINCHER. If that be true of the situation in the Nation to-day, except for the State of Minnesota, then perhaps that State should be unselfish enough to spare Mr. Wells to some national institution and let him regulate all of them.

Mr. SULLIVAN. I understand. But you have done the same thing with our system of grain inspection. We had the best system in the United States, and perhaps the best in the world. Now it is well on its way to extinction because as you very well know when the Federal Government takes jurisdiction of a subject the result is as they used to say of the United States courts many years ago, hungry for jurisdiction, and it has extended its tentacles and entwined them around every activity of the State until they died. They could not live any longer. We know that we can not put up any of our State grades and have them stand alongside the Federal grades. One wipes out the other.

Mr. TINCHER. Speaking about Federal and State laws, this committee has had under consideration for a week a bill to regulate trading in grain futures. Do you think that a subject that ought to be treated in a national way or that it ought to be left to the States?

Mr. SULLIVAN. I think it is impracticable to handle that subject by State laws. I express no opinion, however, as to what benefits can be secured under that legislation, although I think some can if if you do not go too far.

Mr. TINCHER. Your State legislature passed a State law?

Mr. SULLIVAN. We did.

Mr. TINCHER. Mr. Kenning, I believe, was the name of the man who represented himself as being the real lawmaker of your State, though he holds no official position, he telling the legislature what to do, says that a law was passed for the purpose of fooling the farmers.

Mr. SULLIVAN. Well, I suppose Mr. Kenning can be considered the greatest legislative authority in Minnesota.

Mr. TINCHER. Well, he at least admits it.

Mr. SULLIVAN. I have heard him a great many times, but we do not pay much attention to what he says.

Mr. WILLIAMS. He claimed he was instrumental in having this law passed.

Mr. SULLIVAN. Well, if it was a law passed with the intent of fooling somebody that may be true, but really I do not know about that.

But, seriously, we are very much interested about our situation. We do not want to deprive any other State, or any part of the United States, of any benefits of regulation. But you know that it has been the lot of the State of Minnesota to be the pioneer in much regulatory legislation, particularly of railroads, and you know what they have done to us along that line. Our railroad and warehouse commission now has about as much to say about railroads as it does about what happens in Siam. And yet that may be absolutely necessary on account of the character of the subject. Here it is not. Let our railroad and warehouse commission remain in active control of the situation between the shippers and the stockyards. Let us see if we can not make that relation even a better one, a closer one, whereby all will get better results. I believe that as much as possible the Federal Government ought to permit the States to regulate such mat-

ters if they show any capacity so to do, rather than absorb the entire subject. It would seem proper that an amendment be incorporated with or engrafted upon the law you propose to pass, which would permit the development of such commissions and such regulatory practices as we have in Minnesota rather than extinguish them.

Gentlemen of the committee, I want to thank you for permitting me to make this statement.

Mr. RIDDICK. Before you leave I would like to ask you a question: There is a certain territory from which shippers sometimes ship to Milwaukee and sometimes to South St. Paul and sometimes to Minneapolis and perhaps sometimes to Kansas City. Out in that territory there are men traveling nearly every day representing these different receiving points, asking the shippers of stock to ship to their particular place. I was wondering if the great benefits exist as are claimed for your stockyards, why the natural flow of stock would not be to your place unless corresponding benefits are given at other places.

Mr. SULLIVAN. You see all the benefits we are talking about must to some extent give way to price. Price is regulated very largely by freight rates. There is a natural territory tributory to South St. Paul. Then there is a certain territory where price prohibits shipment there. If there is not much difference they might ship to our market, but if there is much difference in the freight rate that would prohibit it.

Mr. RIDDICK. Is there a very considerable territory from which stockmen sometimes ship to one market and sometimes to another?

Mr. SULLIVAN. As Mr. Wells has stated, there has been a very large increase in the number of stock shipped to South St. Paul. I suppose it is because of the conditions existing there. However, I am only a member of the Legislature of Minnesota, and came to talk to you about this legislation, the way it was enacted. And this legislation was enacted at the request of the farmers and shippers of Minnesota, who are very much pleased with it and do not want any Federal legislation that will deprive them of the benefits they know about now in return for a rainbow of promises from which they may get no benefits—Federal regulation. We would rather have what we are sure of than to trade it for something we are not sure of.

Mr. TINCHER. Of course there are 47 other States in the Union that are to be considered.

Mr. SULLIVAN. Very well, I think this amendment is so worded that you can regulate the stockyards all you want to in other States, but please let us regulate our own stockyards. Mr. Anderson did not think there was any difficulty about that matter, and he is familiar with the bill.

Mr. TINCHER. I am just wondering if some State were to pass some legislation, like your grain bill, that was not satisfactory to the people, and had a joker in it, if the Federal Government should let it go. Or, to go further, suppose some stockyard company could control some legislature of its State instead of the people, and that legislature should pass a regulation regulating the stockyards in a way that was unsatisfactory to the people, what about that?

Mr. SULLIVAN. Let me answer your question by reading the amendment proposed rather than in any other way. This proposed

amendment contains a proviso, and Representative Anderson drew it:

Provided, That this section shall not be held to limit the application of Title III to any stockyard owner, market agency or dealer in respect to any matter of regulation not within the authority of such agency.

I think it is the design of the language, even if it has not been carried out by the words thereof, that no phony regulation bill could prevent the exercise of the jurisdiction of the United States under this particular bill.

Mr. TINCHER. I take it the confidence you have in the regulation of your stockyards by law is improved by the fact that you have good regulation at home, and, further, that as to this class of legislation you would highly recommend it to any legislative body.

Mr. SULLIVAN. I certainly would. I will say, more than that, of course there is no doubt in the world, and I think the gentlemen of the committee will agree with me, that we placed the administration of this law in the hands of a gentleman like Mr. Wells, who had had many years' experience with farmers and also with legislators and public men, who understood how to handle these matters, a man of great tact, is a reason why we were correspondingly successful in the actual carrying out of the law.

In a Federal proposition we frequently get men from Georgia to come up and try to do something in Minnesota or vice versa. I do not particularly say from Georgia, but I will use that as an illustration. A man might be sent up from Texas just as well. But our law is executed by men who live right there, who understand the business and understand our prople and their problems and who understand how to get at the solution of those problems; and, furthermore, our legislature is near at hand and is responsible to the local demands of the people.

Mr. PURNELL. I might remind you that of course there is less probability of somebody from Texas or Georgia regulating your affairs in the next few years than there was in the past.

Mr. SULLIVAN. It has been so proclaimed, but I do not know anything about performance. You know I am from Missouri on some things.

Mr. Chairman and gentlemen of the committee, I am very much obliged to you.

The CHAIRMAN. And the committee wishes to thank you for the information you have given.

The committee will now stand adjourned until 10 o'clock to-morrow morning, except for the hearing to be given to the Secretary of Agriculture at 7 o'clock this evening on grain futures.

Mr. VEEDER. Mr. Chairman, as I understand the situation, the proponents of this bill were to have to-day and to-morrow and Friday afternoon, and the opponents were to have Wednesday and Thursday and Friday morning. Will this adjournment affect our time?

The CHAIRMAN. No, sir. You will still have Wednesday and Thursday and Friday forenoon.

Mr. VEEDER. I thank you.

(Thereupon at 1 o'clock and 10 minutes p. m. the committee adjourned until to-morrow, Tuesday, May 3, 1921, at 10 o'clock a. m.)

MEAT PACKER.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Tuesday, May 3, 1921.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman), presiding.

There were present: Mr. Haugen, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gernerd, Mr. Clague, Mr. Clarke, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. We will hear from Mrs. Costigan first this morning, if she is ready to proceed.

STATEMENT OF MRS. EDWARD P. COSTIGAN, REPRESENTING THE NATIONAL LEAGUE OF WOMEN VOTERS, WASHINGTON, D. C.

Mrs. COSTIGAN. Mr. Chairman and members of the committee, I have no intention this morning of discussing the merits of the different bills before you or of going into the need for this legislation, but I want to bring to the attention of this committee in this Congress what we have brought to the attention of other committees in other sessions—that large organizations of women are enthusiastically supporting Federal legislation for the regulation of the meat-packing industry. Among these organizations is the National Consumers' League, of which Mrs. Florence Kelley is the general secretary. Mrs. Kelley is here to represent the National Consumers' League. Other organizations supporting this legislation are the Womens' Trade Union League and the Women's Christian Temperance Union. I represent here to-day the National League of Women Voters.

For two years and more the National League of Women Voters has been supporting legislation looking toward Government regulation of the meat-packing industry. We include in our indorsement the separation of the stockyards from the control of the packers, the making of refrigerator and special-equipment cars part of the common-carrier system of the country, and the assuring properly regulated live-stock and other food markets open alike to producers and consumers. We are anxious that there shall be some governmental agency specially delegated to investigate and supervise this very important industry that has become so large that it is affected with a public use. We are particularly anxious that there shall be a strong publicity department, so that the producers and the consumers will know, as they have a right to know, the conditions

that surround this highly-important industry, particularly relating to the supply, demand, and price conditions.

We feel that public opinion is back of this legislation and the public should know what the facts are. We are therefore anxious for a strong publicity department.

I have come this morning particularly to bring the latest indorsement of the National League of Women Voters. In the annual convention which met in Cleveland from April 11 to April 16, the food supply and demand committee presented recommendations which were overwhelmingly adopted by the whole convention representing the women from all the States in the Union. These recommendations, as adopted, are as follows:

The food supply and demand committee, as a result of its investigations, is convinced—

That the high cost of living is in large measure caused by unorganized and wasteful methods in the distribution and use of food;

That unfair manipulation and private control by large food organizations and combinations of markets and the facilities for trade and distribution are discouraging production and increasing prices to consumers; and

That our Nation is morally obligated to make it possible for nourishing food to be brought and kept within reach of every home and especially all growing children.

Therefore the committee recommends: The continued indorsement of prompt and effective legislation by Congress providing Federal regulation for the meat-packing industry.

Mr. Chairman, I have come to assure this committee of the support of many, many thousands of women of effective legislation to regulate the meat-packing industry, and to express the hope that this committee will very speedily report out some such bill to Congress.

I thank you, Mr. Chairman.

The CHAIRMAN. We thank you very much, Mrs. Costigan. We will hear Mrs. Kelley next.

STATEMENT OF MRS. FLORENCE KELLEY, GENERAL SECRETARY NATIONAL CONSUMERS' LEAGUE, NEW YORK CITY.

Mrs. KELLEY. Mr. Chairman, my name is Mrs. Florence Kelley, and I come here from New York City. I am the general secretary and have been for more than 20 years, of the National Consumers' League, of which the former Secretary of War, Mr. Newton D. Baker, has for five years been president.

At our annual meeting in 1919 we adopted a 10-year program. Before that we had worked for 10 years with growing success to obtain in the States commissions known as minimum-wage commissions or as divisions under the industrial welfare commissions of the different States which should establish rates of wages such that women and minors who worked for their living could be assured a wage that would "maintain them in health." That is the wording of the bill which Congress passed and which is in force here in the District of Columbia at the present time.

There are now 10 of those commissions at work, and we have found, as one after another of them has set up one wage rate after another intended to enable the people who work in the humblest occupations to live while they worked without having recourse to charity while they worked, that the cost of living arose so that apparently the

gains which were nominally made for the workers really accrued to the distributors of food and to the sellers of shoddy clothing and to the housing profiteers. It was rather in the nature of kitty chasing her tail for the Consumers' League to spend so large a part of its time getting minimum wage rates established, only to have this unforeseen result.

Therefore, in 1919, we adopted, as a part of our 10-year program, the effort to get goods, textiles, etc., branded, so that the people might know what they were paying for out of their wages, and to promote and cooperate with all those who were striving to promote regulation of the great organized producers and distributors of foods, and also to cooperate with the people who were promoting cooperation in the distribution of foods by wholesale and retail.

A year and a half of that 10-year period has now passed and we have undergone some experiences and have made some observations which can not fail, I think, to be of interest to the members of this committee. The principle we adopted underlying our 10 years' activity was this, that the banks have by no means been put out of business by the creation of the Federal Reserve Board. On the contrary, both the public and the banks have profited by having that valuable, new organization within the Government at work in this crucial time of reorganization. Very few people, we believe, seriously would consider it desirable that the Interstate Commerce Commission should be done away with, although, as Mr. Anderson showed yesterday, owing to the legislation under which it has had to function, it has not given entire satisfaction, perhaps, to any great part of the public. Still, we all recognize that so long as railroads are administered as they are in this country by private capital, there has to be regulation and there has to be a responsible organization within the Federal Government charged with the duty of regulation under the laws of Congress.

When any large industry is so great and so firmly organized that it can produce such results as we constantly see produced within the meat industry, we can not see why that great industry should continue to play the rôle of Robin Hood and be without the law.

We do not want to put the food industry out of business. That is too preposterous even to suggest, but we do believe that the present situation is an entirely untenable one.

I have lived for about 30 years among very poor, working people, first on the west side of Chicago, and now for more than 20 years, on the lower east side in New York. Last year, for the first time, the greatest and richest city in the Western Hemisphere created, by vote of its city government, a fund to pay for nourishing foods, of which meat should be a considerable element, to be given to the public-school children, in order that they might be enabled to do the work which the city compels them to do in the schools which it compels them to attend.

It was found that very large numbers of school children in New York and in Chicago, and in other cities, were compelled to go to school, compelled to complete a curriculum, and they can not leave school until they do complete that curriculum, and yet they were found by the city physicians to be incompetent from lack of proper nourishment to do the work that the law requires them to do. So

New York City, for the first time, since white people occupied Manhattan Island, voted money to be spent in the five boroughs for the nourishment of the school children in the schools.

We have had volunteer societies doing that work increasingly ever since Robert Hunter's book appeared 15 years or more ago, a book that was almost laughed off the publisher's shelves because of his statements about the insufficient feeding of public-school children increasing at such a rate as largely to frustrate the intent of Americanizing the foreign children and feeding our own native-born children, and training them to be intelligent and adequate citizens of this country. This, of course, is peculiarly true of the children of the unskilled workers.

It has been a very long time—it seems to me it must have been 40 years—since the English people, recognizing that the poor were always with them and that pauperism was always with them in London, arranged first for charity luncheons, and then, perhaps 20 years ago, arranged for an expenditure of the public funds for feeding English-born children in the public schools in order that they might do the school work which the law required them to do.

We, however, regarded that as a kind of hereditary curse of pauperism since the days, perhaps, of Elizabeth in England, and no one was willing, 15 years ago, to consider for a moment, in New York, Robert Hunter's proposal that a regular part of the expenditure of the educational funds of the city of New York should go for the nourishment of the children.

Now, at the end of about 15 years, I think it is, we are doing just that. We are appropriating sums of money from the public treasury in order that our children shall not continue to faint in the classrooms; in order that they shall not fall out of school ill, suffering from a disease which is now regularly recognized by the medical profession as the forerunner of tuberculosis, and, of course, the forerunner of failure in school, a disease which is regularly recognized by symptoms of anemia and other symptoms, such as a predisposition to fainting when making the slightest exertion—the disease of malnutrition.

We now have nutrition classes in the schools, and, moreover, we have an entirely new expenditure of public funds, a thing undreamed of in the past.

The city of New York, the city of Boston, the city of Chicago, and I do not know how many other cities, because every day the list lengthens, pay salaries out of the public funds to city dietitians. The funds may be administered by the county poor authorities; they may be administered by the juvenile courts, as sometimes they are; they may be administered by the educational authorities or by the health authorities, but whatever the organ through which they are paid, they are always paid out of the public funds and are paid to teach mothers how to feed the children in the homes sufficiently, with decreasing supplies of meat; and how to use substitutes for meats, to enable their children to go to school, which they must do, and learn lessons, which they must learn, and which they can not learn on the present rations, unless their mothers are taught to cook differently, to arrange the diets differently, so that they can get other things to take the place of meat, which the mothers in the families of unskilled workers can not afford to buy at the present prices.

Occasionally, a packer says to me—I see a good deal of the agents of the packers in the course of my travels. They come to see me and I meet them at the meetings of the League of Women Voters which they regularly frequent, and they come to our meetings and they all say, "Is not this failure to feed the children due to the lack of skill of the mothers?" Of course, we have had mothers in this country ever since we have had any population in this country, and it is a perfectly new failure of the mothers that they send children to school fed on bread and tea or on bread and coffee. Until the prohibition act came in, the Italians used to send the children, if the father kept a little saloon, in quite considerable numbers from my own neighborhood so stupid that they would hardly reach their desks before they would put their heads down on them and go unshakably asleep, because their breakfast had been a crust of hard, Italian bread, dipped in whatever remnants were left in the glasses the night before.

It is quite a new thing for American mothers to be so incompetent in the management of food that they have to have dietitians sent to them to enable their children to keep up in school. The fault is not with the mothers. It would not matter what a genius you were, if you had the falling wage of last year and this year, and the prices to pay for meat that they have to pay in the poor little shops in the districts where the great masses of unskilled workers live, no genius would enable you adequately to feed your children on the stuff you could buy; and for that reason, we have the supplementary meals growing and spreading all over the country. Instead of having such discussions laughed at as the folly of a light-headed man, as they were 15 years ago, this is now an established part of the work of the municipalities to eke out the insufficient food of the oncoming generation.

I talk whereof I know, because I have lived among the unskilled workers since 1892, and I have seen the falling standard of food in the families, and I have seen the means that the cities have taken to cope with that.

The Consumers League began the effort to get regulation of the food industry, meaning thereby primarily the meat industry, and we did it, animated first by the delay in getting minimum wage legislation really to assure the health and modest comfort of the people for whom it is provided by the legislatures of the different States and by the Congress; but also animated by this quite intolerable spectacle of the falling standard of vitality of the children of the unskilled workers in the industrial centers.

Now, that is our position. If the American people are agreed, and they seem to be agreed, that it is a good thing to have a Federal Reserve Board to stabilize the banking industry, and if we agree with Mr. Anderson in what he said yesterday, that although not the whole American people have been at all times satisfied with the functioning of the Interstate Commerce Commission, still no one wishes to abandon the attempt to get rational and adequate regulation of transportation facilities and transportation rates, we believe, and we are a part of that rapidly growing national organization of women who believe that there must be in the very near future adequate regulation provided by Congress through some one or some combination

of these bills which are before you to stop this tendency toward the deterioration of the American children, and, of course, the wives and husbands themselves, with their falling wages and with the high cost of living which is still developing.

That is the situation and that is the campaign on which we have enlisted. We shall appear before you just as many times and just as many years as may be necessary, and we shall not only appear before you here but we are appearing all over the United States.

The American women are a great deal more intelligent than industry gives them credit for being. We are a great deal more disciplined in working together. From the days when women began to have missionary societies back in the twenties and thirties, through all the 70 years of struggle to get the amendment to the Constitution giving us votes, we have been learning to work together, as probably the women of no other nation on the globe ever were disciplined in working together, and until last fall an enormous part of the organized energy of women, far more than Congress ever realized, had been given to a campaign, educational and political, for getting votes for women.

Now, all that energy is released. We have the votes and we are now organized with a thousand ramifications. We have more interlocking directorates than business has.

Mrs. Costigan, who represents the League of Women Voters, is vice president of the National Consumers League. I represent the National Consumers League and am an officer, perhaps only in a rather detached or honorary way, but still an officer in a considerable number of organizations, and if you should institute an investigation of the activities of women, I think you would be surprised to find the thoroughness with which it is possible now, when we no longer have to struggle for votes, to deal with any subject which presents itself.

This subject presents itself to the mothers of the United States. It is not only the unskilled worker in the city who feels this pinch but also the wives of the high-school teachers, the wives of the professors in the fresh-water colleges, the wives of the ill-paid clerks, and the tempted bank cashiers, and all of the people who value respectability so that they take small salaries for the sake of having occupations to which respectability attaches. None of them like the basis on which they have to keep house now, and their intelligence is available and is enlisted for keeps in this campaign for the control of food sources.

So much for the people who are our new backers.

My father was for 30 years in the House of Representatives. He died in 1890. During a large part of the time he was in the House, from 1870 to 1890, the question of the incipient trusts was before Congress. It was a source of great excitement to the Congress for those 20 years, from 1870 to 1890. My father was here from 1860 to 1890. I heard a great deal in those days about what would happen when the things which were then just beginning came to full growth and fruition. This subject has never been wholly absent from my mind; but there are aspects of the present relation of this particular industry to the life of the country, aside from the matter specifically of food, which can, I think, not fail of interest to this committee.

For instance, Mr. Anderson spoke yesterday of the good-will advertising which had been carried on in relation to the producers of food.

There has been an astonishing campaign. I do not know that we could call it exactly a good-will campaign. I think it has been addressed not altogether to the good will of the public, but, perhaps, in part to their cupidity. There has been an inordinate and immense campaign carried on throughout the press, first pointing out how trivial are the profits of the packers but then also, simultaneously, and very confusingly to the women investors, who are rather new—women investors are now an established part of the investing public. They are very critical and very eager to learn and very eager to find out about trustworthy investments, and it puzzles them very much to read in the papers—this campaign has fallen off just a little just recently—about the trivial profits of the packers and then to receive by mail offers of bonds and stocks with the most gratifying profits.

I should think that men so astute as those who conduct the packing industry would have seen how confusing that might be to new investors. I dare say that men who have been investors for all the years since 1870 understand those conflicts of statements, but we do not. We are puzzled by them, and we are also struck by this coincidence, that the more they advertise, the less news we receive of hearings like this. I live in New York and I read the metropolitan press. Members of our organization live all over the country and read the local press, but the experience of all of us is identical. Unless we come to the hearing we know almost nothing about it. Of course, we can read the evidence, as it piles up and piles up, but it is not easy always to get that promptly. The publication lags, and unless people have a really scientific interest in knowing what is going on here, and unless they are perfectly undiscouraged by the slowness of the process of getting any results as to what is going on here, they do get discouraged at being unable to find any news in the press. We can read about the Sheppard-Towner bill and we can read about Mr. Rogers's bill against misbranding and we can read eternally about bills which do not interest us at all; columns and columns about bills which do not interest us, but about these bills we have great difficulty in finding out anything at all. I think more women are interested in this general legislation that has been going on so long than anything else except the Sheppard-Towner bill, and yet it is harder to learn about this than it is about anything else.

I should think it would be of great interest to this committee to know why it is that its proceedings are given so little publicity in relation to their very great importance.

Mr. ASWELL. Would you suggest to the committee why it is the public does not know anything about these matters?

Mrs. KELLEY. Yes; I think there is a very close coincidence between the good-will campaign of publicity and these confusing campaigns which are addressed to the public through the press and the singular absence of information about the proceedings of this committee.

Mr. ASWELL. You think the packers keep this from the public?

Mrs. KELLEY. No; I do not think the packers keep this from the public at all. I do not think they have to.

Mr. ASWELL. Do you think the press does that?

Mrs. KELLEY. Well, you only have to read the press and arrive at your own conclusion. You see we are new at this game and we may be drawing wrong conclusions——

Mr. ASWELL. I am trying to find out who is responsible.

Mrs. KELLEY (continuing). But there seem to be quite startling coincidences.

Mr. TINCHER. You mean that if a country paper is carrying a half page good-will advertisement they have not much room for news about what is going on about these matters?

Mrs. KELLEY. Our constituency is rather urban. I think Mrs. Costigan's is more comprehensive, but my constituency is rather urban and I was speaking of the urban papers, from the metropolitan papers down to those of the communities where the fresh-water colleges are located, and if you would make a collection of those and have them clipped for information about the evidence given at the hearings of this committee and then have all the advertising clipped, and keep them in volumes side by side, I think you would find a very interesting oscillation of the scales. I may be wrong about that, but I think you would.

Now, there is a more intimate experience that my organization has had which, if the chairman thinks perhaps borders on the nature of gossip he will, I am sure, not let me take your time unworthily; but I appeared before congressional committees a couple of years ago and then we adopted this 10-year program at our annual meeting, and we have had a great deal to do in the way of having speakers before forums discussing the cost of living. We have been fairly active with regard to the price of meat. Among other things, we had a good many articles prepared concerning cooperation and the need of municipal slaughterhouses and municipal markets, but particularly the need of developing cooperative distribution of foods and other essentials through the cooperative movement which imitated the Swiss cooperative distribution of food. The children of the Swiss cooperators all through the war could get milk in great abundance. It is the poor who are the cooperators, and the children of the Swiss poor in Zurich, Geneva, and in all their industrial centers, had all the milk that the children needed. They got it through their cooperatively owned herds and through their cooperatively owned dairies. The same thing was true of the children of the cooperators in England. They lacked other foods, but they did not lack the milk, because that was produced by their cooperatively owned herds.

So we thought that was a good thing to copy and we had a good many articles about cooperation prepared, but a very singular thing has happened.

There is a series of periodicals that go out to women, the Pictorial Review, the Ladies Home Journal, the Woman's Home Companion, Good Housekeeping, Vogue, and a very long list. They have an enormous circulation. It is said that even the husbands and fathers of the women who buy them sometimes read them.

Now, those periodicals have had a terrific boom in advertising. Since the beginning of the war their advertising has grown and grown and grown, but you can not get a carefully written article about cooperation into one of them; not one. They will not tell you why they will not take them. They will not say that the public is not.

interested in them but they just do not carry them. If you would have all those periodicals clipped for articles about cooperation and compared those articles with the advertising, if you will put cooperation in one set of clipping books and advertising in another set of clipping books, I think you would find the scales acting pretty much as they would in the case I mentioned a while ago. We can not get those things discussed. As I said a few moments ago, I gave evidence before this committee and the Senate committee a couple of years ago, and we have had a good deal of publicity carried on by the kind of hand and mouth way that you have got to have it carried on now, because now you have to go and lecture——

Mr. VOIGT (interposing). It might be a good idea for the women to publish a cooperative magazine of their own.

Mrs. KELLEY. There are a great many difficulties about that. There is the paper difficulty and there are a great many other difficulties about doing that. It is much better economy to get all the subjects that you want to read about in the papers that you buy for a variety of reasons than just for one reason. It is better economy to have a free flow of news and information in the general things that are commercially printed than it is to set up little specialized things by amateurs. We have learned that; but we have had this very interesting experience: My organization, as I said, is an old established organization, and one of the first groups of people who came into it were presidents and economists in the leading universities and colleges, and we have always had branch leagues in the universities and colleges.

We have 30 of them now and we should have more. We have also people lecturing on these general subjects that I have been speaking of in the name of the Consumers' League. Nearly all the work that is done for the League outside of a small central office, in which I am the oldest official, is done voluntarily. For instance, we enjoyed for nine years the gift of the priceless services of Mr. Justice Brandeis before he was elevated to the bench in defending the constitutionality of our minimum-wage legislation and the minimum working-day. The economists have written articles on the subject of the minimum wage until there is a whole literature on that subject, but just after our last annual meeting a new kind of difficulty arose which we had never encountered before. Because of the great interest which people began to show in our methods and inquiries we had to expand our correspondence to include all the subjects that our members have known very well for the last 20 years. That is what we were trying to do, but suddenly we began to receive letters from our honorary vice presidents, inclosing letters addressed to them from Mr. Louis Swift, and all of those letters were alike in substance—they varied a little in form, but were practically alike in substance—asking the presidents of the universities and these economists whether, as honorary vice presidents of our organization, they were keeping themselves as intimately informed as they ought to be with regard to the activities of the organization to which they were lending the use of their names. One president of a great university actually resigned. That would have been a great blow to us to have him resign, but almost immediately after his term of usefulness at his university expired. The new president is again

with us. Aside from that, the only effect of Mr. Swift's correspondence was greatly to enhance the interest of these officials in our organization and in our activities. They sent all of these letters either to me or to the Secretary of War with more or less amusing comment or, in some cases, with serious inquiries as to whether or not, perhaps, in these very troublous times this was just the moment for the League to embark upon so difficult a field as that of keeping the light permanently turned upon the great massed industries.

Mr. CLARKE. May I ask you a question?

Mrs. KELLEY. Certainly.

Mr. CLARKE. Was this Secretary of War Baker?

Mrs. KELLEY. Yes, sir. The Secretary of War, Mr. Baker, was for five years and is now the president of this organization. Before that Mr. John Graham Brooks, of Cambridge, was for 18 years the president.

Of course, we began then to inquire into the scope of this correspondence which Mr. Swift was carrying on in this way. He did not address any question to the central office. We not only gathered in a very interesting volume of correspondence from these gentlemen but we also learned, to our great surprise, that the most beautiful pamphlets that one can imagine, in the most rainbow colors, were being sent to the girls' boarding schools in the country with letters inquiring whether the students in the boarding schools really felt that they were able to form an enlightened opinion as to the great industry. They were private boarding schools attended by girls between the ages of 14 and 18. We were not trying to interest the schoolgirls in the intricacies of the packing industry but in the wages paid to the girls of their age who have not the advantage of going to boarding schools year after year and being cherished and educated; to interest them in the girls who spin the cloth in the mills and do work in the stockyards, some of them sometimes under temperatures that are not always wholesome, away down below the temperature in the boarding schools.

Mr. CLARKE. Have you any of those circulars?

Mrs. KELLEY. I have not any here. I can send them to the chairman.

Mr. CLARKE. I will be much obliged if you will do so.

Mrs. KELLEY. Very well; we are quite rich in them. This is the final interesting postscript. A leading periodical, a weekly in New York, published an article on this underground correspondence, this kind of correspondence addressed to the heads of universities, inquiring of them whether they were performing their duties when they enlisted as an honorary vice president of a semipublic organization. That struck some of them very unfavorably. It seemed to them that was the kind of inquiry that reflected on their intelligence and on their sense of responsibility and they did not take them altogether amiably. They sent some of them to the editors of the magazines, not necessarily for publication, but for the information of the editors. One editor receiving one of these letters and some of these pamphlets in this way, published an article which he ended with these words:

Mr. Swift, is your case so weak that you have to support it with blackjack propaganda?

To the surprise of the editor, after a suitable period, he received a letter again signed by Louis F. Swift, ending with the words:

We do not regard this as blackjack propaganda, but the method we have found so advantageous that we propose to continue it.

I do not want to take the time of the committee for further exposition of the difficulties of publicity and the difficulties of effective cooperation in behalf of legislation like this on the part of the public. I can only say that our organization has not suffered from this. We are still at the old place, doing business in the same old way, with more members, a little more money, and a good deal more publicity than we have had in previous years.

I think that the committee is entitled to know the difficulties in promoting this legislation that we are confronted with.

I thank you, gentlemen, for listening to me so patiently.

The CHAIRMAN. We are very much obliged to you, Mrs. Kelley.

Mr. CLARKE. Mrs. Kelley, may I be permitted to ask you a question or two?

Mrs. KELLEY. I shall be delighted.

Mr. CLARKE. That is fine; I am a new member of the committee. What investigation has your organization made as to the cost, the price, to the one who distributes and to the consumer in your neighborhood; that is, as to the difference between the price they pay and what they get for it?

Mrs. KELLEY. As to what investigation we have made as to the spread in price between what the local dealers pay and the price that they charge the local consumers, we are a voluntary organization and our means are not inexhaustible. So long as Mr. Palmer was investigating the subject of profiteering, we felt that it was not necessary for us to duplicate his labors. The whole question is so elusive that it seemed to us better to leave those inquiries to Mr. Palmer and to this committee which can always summon witnesses before it, and to the Federal Trade Commission. We have a great deal to do with the Federal Trade Commission in its other lines of activity, aside from meat, in keeping the light turned on unfair trade practices. We are very favorably impressed with their procedure, with the fact that they are obliged to give hearings to the people whom they are investigating, and there is an opportunity for the public to attend those hearings, and it has seemed to us better to avail ourselves of the opportunities for information which are furnished not only by the Federal Trade Commission but also by the States and in some instances by the cities and in some cases by private organizations. But what we do know is that the increasing mass of working people, for whatever reason, are now regarding meat as a luxury who in happier years regarded it as a necessity.

I have lived a great deal among peasants who had come from Bohemia, Austria, and the northeastern part of Prussia and who live in what we call the slums of New York and in Chicago, and what we see is that those newcomers eat very much less nourishing food.

Mr. ASWELL. This bill does not touch the retailer?

Mrs. KELLEY. No. We believe that in addition to this bill there will always have to be a cooperative movement as there is on the continent of Europe, and in England, to take care of the retailers. We do not believe that Congress can take care of the retailers; that would

be like asking Congress to swat the fly. We think there ought to be a great cooperative movement to do that. We want Congress to deal with the agricultural industry, with the railroads, and with the packing industry, as we know it. We think we ought to be able, through a cooperative movement, to take care of the little fellows.

Mr. ASWELL. Are you doing anything now on that?

Mrs. KELLEY. I explained to you a moment ago how exceedingly difficult it is to do that when the great advertisers are warning the organs of publicity that it is an unpopular subject.

Mr. TEN EYCK. You do not think that we ought to pass any law to make the farmer sell his produce, that is to say, below what he is now selling it for?

Mrs. KELLEY. I certainly do not want to see any farmer discouraged from producing more milk in and around New York State. We have to get our milk in New York State from five other States and Canada and we do not want to discourage anybody from growing any food that he is willing to grow.

Mr. TEN EYCK. In other words, it is the spread between the producer and consumer that should be taken care of?

Mrs. KELLEY. Yes, sir. We see the farm boys coming into town——

Mr. CLARKE (interposing). They are beginning to return homeward. I come from Catskill and the Congressman here [indicating] comes from Albany.

Mr. TINCHER. What do they do when they get home?

Mr. CLARKE. They work on the farms. For instance, last year at this time I went out to get help on my farm—that is, in addition to my ordinary help—and I offered them $100 a month and their board. I could not get them. Now, to-day, those boys have come back and we are paying them $50 a month and board right there now to help us with the crops.

Mr. ASWELL. Do they like the work as well as before?

Mr. CLARKE. They do the work now. Their money has been spent, some of them, in high living in the cities.

The CHAIRMAN. Mrs. Kelley, you have studied these reports; are there any comprehensive reports on profiteering? I have reference now to the retail dealer, the packer, the manufacturer, all along the line.

Mrs. KELLEY. We have no hold on the little retailer at all. We do not want you to spend time on him, but we think he should be taken care of by a cooperative movement. We do think and hope that the time may come in the near future when the wholesale dealers in food who are big enough to be seen and who do not move away in the middle of the night, may be licensed.

The CHAIRMAN. Is it not your contention that the profiteer should be eliminated? The packers contend that there is no profiteering in their business, the merchants contend the same thing, and so all along the line, that they are entitled to the profit they are getting. If you have any comprehensive report as to profiteering so that we might locate the source of the evil, we should be glad to have it.

Mrs. KELLEY. We have no information on the activities of the wholesaler, because, as you know, Congress has never arranged for him to be licensed. He is as much a Robin Hood as the packers. He is outside the pale of control and we can not know about him.

Mr. ASWELL. Is it your opinion that the packers are profiteers?

Mrs. KELLEY. Gentlemen, I can only suggest that you secure a large assortment of their advertisements of their stocks and bonds and that you study them.

Mr. CLARKE. But the large banking houses are the ones who advertise and that is for selling purposes?

Mrs. KELLEY. After all, the buyers, after a while, find out what they are buying. They are the most alert on these questions; the women are not yet so clever.

Mr. TEN EYCK. Is it not a fact that what we need in the various States, cities, and municipalities throughout the country are better marketing conditions?

Mrs. KELLEY. Undoubtedly, that is one thing.

Mr. TEN EYCK. Is not that really the secret of the beginning of a successful end?

Mrs. KELLEY. We need better markets; we need city and county slaughtering houses; we need a cooperative movement; we need the licensing of wholesalers, and we need better control of the freight rates; but it is very difficult to get any of those when the organs of publicity know that it is an exceedingly unpopular subject to discuss.

Mr. TEN EYCK. Yet, all those things you have mentioned come directly under the one phrase that I used, "better marketing conditions."

Mrs. KELLEY. Yes, sir; we want all of those.

Mr. ASWELL. There must be some sort of a conspiracy between the packers and the press?

Mrs. KELLEY. Not at all.

Mr. CLARKE. That is the inference that I drew.

Mrs. KELLEY. I do not mean that there is a conspiracy at all. If the women were trying to run a little experimental paper, as one of the gentlemen has suggested, for our own enlightenment, we should feel very grateful to anybody who would take five full-page advertisements a month. Nobody would have to conspire with us.

Mr. TEN EYCK. Let me ask you another question. The value of a paper for advertising purposes is its circulation, is it not?

Mrs. KELLEY. Yes, sir.

Mr. TEN EYCK. Have not the women it in their power, with the Ladies' Home Journal, the Vogue, and a few others, to control half of the advertising?

Mrs. KELLEY. As I said, gentlemen, we are new recruits, and we have been too busy.

Mr. TEN EYCK. You understand what I mean?

Mrs. KELLEY. Yes, sir. We have been too busy getting suffrage to do all of these things which the men, who have not had that particular struggle on their hands, have not succeeded in doing. That is the reason we hope Congress very soon will do its heavy share of this work.

Mr. ASWELL. Will you kindly suggest how can Congress compel the packers to stop this kind of business, if it is true?

Mr. TINCHER. You do not, as I understand you, advocate Congress stopping that, but you are advocating that Congress pass the necessary laws?

Mrs. KELLEY. That is what I am advocating. The gentlemen who sit at this table are the successors to the gentlemen who have been

sitting around this table for 50 years dealing with these matters. We have had some variety of experiments, and some of them have been very useful indeed. What could be more useful than the pure food law, the inspection of cattle for tuberculosis, and the whole long series of life-saving legislation which your predecessors enacted—perhaps some of them are still here. I remember that it took 20 years, or something like that, 16 or 18 years, to get the pure food law passed and working satisfactorily, but nobody would undo that now. There was doubtless the same objection to that as there is to this legislation. I remember that the only other attack that the Consumers' League ever suffered was from the brewers, when we were helping to pass the pure food law. I do not wish at all to evade the question which was asked by the Representative here. I do not fear at all that Congress will attempt to interfere with advertising which runs counter to the legislation, but I think they will perceive the absence of a certain kind of publicity attending their own activities, and that they will be very much interested in the coincidence between the advertising and the silence.

I do not know whether that answers your question satisfactorily.

Mr. CLARKE. Yes.

Mr. MCLAUGHLIN of Nebraska. I should like to ask you a question. I see that you have given a great deal of study to this question and undoubtedly have a personal opinion as to the agency that should be created for the enforcement of a law such as we are contemplating, if any law is passed. Some of the bills which have been introduced propose to make the supervising agency the Department of Agriculture, others select the Federal Trade Commission, and others propose the creation of an entirely new commission to handle this subject alone. It seems to me if any legislation is to be had at all, if it is needed, that we want an enforcement agency or supervisory agency that will be the most capable possible and that will be able to devote all of its time to the study and consideration of the subject. It has seemed to me that the influence and scope and the great volume of this industry is such and of such vital importance to the entire people that it is going to necessitate, if any legislation is to do all we want it to do, the creation of a commission to deal with this subject only. If you have an opinion, I should like to have it.

Mrs. KELLEY. I should say, sir, that my organization has not voted on that particular matter, but my own personal opinion, which, I think, weighs somewhat with our organization, is this: When the Federal Reserve Board was created the Treasury Department was already in existence and operating. I do not know how much Congress discussed the propriety of placing the functions of the Federal Reserve Board with the Treasury, but in the end, I think, no one would wish to have that done, and least of all the Secretary of the Treasury. I think it is considered that there ought to be a Federal Reserve Board by itself to deal with an activity so great as the activity of the banking interests of the country. I should think there ought to be an organization entirely outside of the Agricultural Department, not to interfere with what the Agricultural Department already does but to supplement its activities and to deal distinctly with the transportation aspect and with all the ramifying aspects that have nothing whatever to do directly with the guidance or the immediate super-

vision of the farmer on his farm. I do not see how we could ask the Department of Agriculture to go out into fields that are alien to its past experience. The Secretary of Agriculture automatically changes every four years or every eight years. I should think that the commission ought to be so arranged as to have a continuing personnel.

Mr. ASWELL. Do you think that the Federal Trade Commission could better handle it?

Mrs. KELLEY. If I personally had to choose, with my limited knowledge, I should say that I think the Federal Trade Commission should be given these powers. It might need to expand its present activities, or perhaps it might be relieved of some of its present activities, but it seems to me that the Federal Trade Commission would be well adapted to this work.

If there are no other questions, I thank you, gentlemen, very much.

Mr. MCLAUGHLIN of Nebraska. Mr. Chairman, I should like to call Mrs. Costigan to state briefly what her convictions are on the question which I have just asked Mrs. Kelley.

The CHAIRMAN. Certainly.

Mr. MCLAUGHLIN of Nebraska. Mrs. Costigan, please just give us your personal convictions.

Mrs. COSTIGAN. I agree with Mrs. Kelley. The packing industry has become very great. I think it would take the entire time of a commission to regulate it. If it does not seem wise to appoint a new commission, probably the Federal Trade Commission could set up the machinery to look after it.

Mr. MCLAUGHLIN of Nebraska. I thank you.

The CHAIRMAN. The Secretary of Agriculture has notified us that he can not appear before the committee before Thursday.

Mr. VEEDER. Of course, we have some men that could be heard.

The CHAIRMAN. Certainly, some arrangement can be made; we want to make it absolutely agreeable.

Mr. VEEDER. We will not have any opposition. We had figured on going on to-morrow morning. I have two or three gentlemen here, but they will only take 15 or 20 minutes apiece. They want to follow instead of leading. I think that we will go on to-morrow and Thursday, and whenever the Secretary comes in we will give way. I do not see any other way to do that.

Mr. TINCHER. Will you run over Friday?

Mr. VEEDER. We may run Saturady or Sunday, as you say.

Mr. TINCHER. There will be no hearings on Saturday or Sunday.

Mr. VEEDER. I do not think we will do that.

Mr. TINCHER. If you do, I am going to work Sunday.

Mr. VEEDER. If we have some witnesses we might sit a little later in the evening.

The CHAIRMAN. Without objection, arrangements will be made to hear the Secretary on Thursday.

(There was no objection.)

The CHAIRMAN. We will now hear Mr. Atkeson, the representative of the National Grange.

STATEMENT OF MR. THOMAS C. ATKESON, REPRESENTATIVE, NATIONAL GRANGE, PATRONS OF HUSBANDRY, WASHINGTON, D. C.

Mr. ATKESON. Mr. Chairman and gentlemen of the committee, to those who have been members of the committee for some years past I do not need any introduction, and to the newer members of the committee I will say, by way of introduction, that I represent the oldest farmer organization in the country. It is now 55 years of age, and if it has not learned something in that time it should have been chloroformed when young. So, we are largely a conservative farm organization, with a membership of something like 800,000. This organization is maintaining in Washington an office, which I happen now to be in charge of, with two assistants. I think I might say that the expenses of this office fall entirely upon the producing farmers of the country and it does not cost the farmers to exceed 1 cent apiece a year for the total expense of our office in this city.

We have sent a little booklet to all the Members of Congress, which perhaps some of you have done us the honor to read. If you have read this booklet, a copy of which I hold in my hand, you know something about why we are here.

I think I will read a single paragraph:

> For more than half a century the Grange has been speaking for the best interests of its members, who are engaged in the business of farming. Its representation at the National Capitol is not "a lobby" in the commonly accepted meaning of that term, and never has been. There are no doubtful or ulterior interests to be served by the representative of the National Grange and no unclean dollars to pay for such services as are rendered.
>
> The interests which the Washington representative of the National Grange speaks for are those of the industry of agriculture, the industry upon which rests not only the economic structure of American business, but the political structure of American democracy and the welfare of all the people. It is our purpose to present to Congress the desires and the necessities of the farmers of this Nation and the sociological and economic facts from which these desires and necessities arise and, as fairly and as fully as possible, the views of the real working, producing, substantial farmers, not as a selfish or class interest, but to protect this basic industry against misunderstanding and exploitation which must inevitably result in serious injury to all classes.

Now, dealing with this packer question, I have made so many statements before this committee and the committees of the Senate that I feel at a loss to take your time for any considerable length of time in repeating the things I have said heretofore.

For 10 or 12 years, as I recall, the agitation for some sort of control of the great packing industry has been going on in the country. It seems to me the time has come, in the fullness of time, when Congress should definitely put on the statute books some constructive legislation dealing with the packer problem, not for the purpose of injuring the packers or injuring anyone else but for the sole purpose of protecting, as far as may be done safely by statute, the interests of all the people, the great consuming public, against possible exploitation by this large problem of distributing the meat of the Nation to everybody's breakfast table, dinner table, and supper table.

I think, perhaps, not many people realize as fully as I do the enormous proportions of that undertaking. When we take into account that we have more than 100,000,000 people and that every family in this Nation, so far as I know, if they have the price, can have pork chops to-morrow morning for breakfast delivered at their back door

in time for breakfast, or beefsteak for breakfast, or lamb chops, to take these meat products from the 7,000,000 farms, more or less, and off the plains of the West and take them through all the processes of manufacture and distribution and delivery to the doors of the consumers of this country, 365 days in the year, is an enormous undertaking, requiring a tremendous capitalization, a tremendous machinery of distribution, and the packers in some measure have accomplished this large undertaking.

It is possible they might have accomplished this with less profit to themselves and greater profit to the public. Some people think that it is demonstrable that they might easily have accomplished this tremendous service, the importance of which we all recognize, with less profit to themselves and more profit to the public.

This seems to me to be, in brief, the problem that Congress must consider or should consider, whether in fairness to the packers and in fairness to the producers and the consumers, this tremendous service which they have rendered should have been rendered more economically, more efficiently, and at less cost to the consumer; that is, whether, so far as they are concerned, they could have taken out of this problem of feeding the people some part of the spread, as we sometimes say, between the producer and the consumer.

I have been interested in that spread problem. Somebody has to be paid, of course, for this tremendous service that is rendered in distributing these products; but two years and four months or thereabouts ago, when I came to Washington, we sold a flock of pretty high-grade sheep for $16 a head. A short time before that we could have sold them for $20 a head, and now we could not sell them for $4, and yet I am paying the same price for lamb chops in the same restaurant now that I paid two years ago. I get my lunch down in the city every day, and I am pretty fond of lamb chops and once or twice a week I order lamb chops at the same restaurant, and with the same service, and when I actually sold sheep at $16 a head I paid the same price that I am paying now when I could not get $4 a head for those same sheep on my farm down in West Virginia; and I am wondering what I would pay for lamb chops if I did not get anything for sheep.

It is my firm belief that if the farmers of this country did not get a single cent for their meat products it would make precious little difference in a Washington hotel or restaurant.

Now, something happens to these farm products after they leave the farm, and it is up to these city people to find out what it is. The farmers are certainly not to blame for whatever occurs after it leaves their feed lots and their railroad stations, or after it leaves their hands. Maybe, they are profiteers.

Some people seem to think so, but after the commodity leaves the hands of the farmer, like my lamb chops, it does seem to me that when the price of sheep has decreased in these two years three-fourths of their former value, it ought to manifest itself somehow or other in the price I pay for lamb chops in Washington, but I know it has not done so. I know that is not so this week.

Mr. TINCHER. Maybe the decrease is in the price of the tallow.

Mr. ATKESON. Possibly, I do not know. I am raising these questions for my lady friends and other friends in the city to answer.

Mr. TEN EYCK. You stated a while ago that if perhaps the farmer really gave his sheep away there would be no difference. Not over 60 or 90 days ago a man sent some sheep out to the stockyards at Chicago and his return was 10 cents a head. That is a fact. He came pretty near giving them away.

Mr. ATKESON. I just raise that question simply as an illustration to show that in this matter of distribution and in this matter of spread, about which much is said, between the producer and the consumer, that there is a very intricate question, and it seems to me it is more the city man's question than it is the farmer's question.

Mr. PURNELL. You have a pretty definite idea as to just what does happen, and I think you ought to give the committee the benefit of your judgment on that.

Mr. ATKESON. As to what I think the committee should do?

Mr. PURNELL. No; tell us just what does happen, in your judgment.

Mr. CLARKE. Yes; tell us where his profit is going.

Mr. ATKESON. Well, we are going now into the philosophy of a large question, when we undertake to tell what happens.

Mr. ASWELL. Do not give us the philosophy, but tell us just what happens.

Mr. ATKESON. I think I know what happens.

Mr. ASWELL. That is what we all want to know.

Mr. ATKESON. And I think I know what has got to happen.

Mr. CLAGUE. Tell us just those two things.

Mr. ATKESON. But maybe I am mistaken.

Mr. PURNELL. You know this is the buck-passing age.

Mr. ATKESON. To begin with, this thing I do know, that the average wage on present prices that the farmer can pay on the average, does not exceed $1 a day for a 10-hour day. After 50 years of digging into soil and wrestling with this problem, based on the present price of farm products, the average farm wage—in harvest, and at other times, you can pay more—that the farmers can pay is $1 a day for a 10-hour day. They can not pay more than that and prosper.

Mr. CLARKE. A dollar a day and board?

Mr. ATKESON. A dollar a day and board, and in some cases, perhaps, without the board. I could give all sorts of figures and evidence to prove that proposition.

Mr. ASWELL. We accept that statement. I think you are right about that.

Mr. ATKESON. Now, that being true, you can not maintain for any considerable length of time the present spread between what the farmer is getting and what he is able to pay his hired man and feed this Nation, with somebody getting 10 or 20 times that much for less skill and less labor.

Mr. CLARKE. And with no invested capital.

Mr. ATKESON. Somebody must settle that question. Either the prices of farm produce in this country must go up or the prices of what the farmer buys and what the public generally buys must go down or calamity is not far ahead of this Nation. It is safer to write history than it is to write prophesies, so I do not undertake to prophesy, but I made an investigation last summer bearing on this question. Down in one of the prettiest valleys in my State, where

I hunted rabbits for 50 or 60 miles around, I tried last summer to find a single man in that area, a young man between 20 years of age and 40, who was unmarried and unhampered with a family who was on any of that farm land. They have all migrated to town. There are a few old men and a few boys and a few girls letting the briars grow in the fence corners, letting the barns rot down and the homes go unpainted, striving to make a living, but doing nothing but cultivating the soil and producing a crop and letting other conditions go unattended to simply because they can not afford to do otherwise.

Now, somebody is going to feed this Nation. The fields are going to be cultivated, but I do not know who is going to continue to cultivate them under present conditions.

I said awhile ago I thought I knew what the trouble was. Rents in Washington are just as high as they ever were; wages in Washington are just as high as they ever were. So far as I know, profits are just as high as they ever were, and that is not true in the country. That is not true on the farm. Now, then, from the time the food that feeds the Nation leaves the hands of the producer there are just two things that happen to it and nothing else; just two things get into it after it leaves the farm, and nothing else, and that is labor and profit. Labor and profits are too high compared with what the producer got when it left his hands for a prosperous country. What the producer gets is such a small proportion of what the consumer pays, after you have added these numerous profits and the high cost of labor, that it cuts practically no figure.

I went to a tailor shop last week and have under contract now a suit of clothes that is being made in this city. I need not tell the price, but it is about three times what it would have cost in 1913. There is not more than $3 worth of wool that the producer got paid for in that suit of clothes, and we will assume it is a $60 suit of clothes. Now, that means that $57 worth of something besides wool gets into that suit of clothes, and every single person that touched it from the time the wool left the farmer until it gets into that suit of clothes will put his books on the table and prove an alibi as to being a profiteer; every single one of them. I simply take this $60 suit of clothes as an illustration. There has gotten into that suit of clothes absolutely no material substance, nothing but profits and labor to the extent of $57 as against, say, $3 worth of wool that the producer got for it. Now, if the producer had got nothing for his wool I think it would still have been a $60 suit of clothes. At any rate, the man who bought it would not have known much difference between $57 and $60. He still would have thought that it was a pretty high price for that suit of clothes.

I do not think Congress can cure that condition, but that is what is the matter. Now, if some of you gentlemen can cure it——

Mr. TEN EYCK. Is there not one other thing in addition to that, the tremendous cost of distribution, the consumer sitting in his home and telephoning for a quart of tomatoes and distributing food in that way in the various communities? That cost should be cut down. That, of course, is labor also, but it takes a lot of other things into consideration.

Mr. ATKESON. Yes; there is involved there somebody's profits and somebody's labor and somebody's convenience, and we have to

pay for all those things. We talk about the telephone as being a great blessing, but when you come to measuring what it has cost the people of this Nation, it is an abominable nuisance.

Mr. TEN EYCK. And the two classes of people suffering from this condition to-day are the producers and the consumers.

Mr. ATKESON. That is right, and the consumer is howling, and so is the producer, and so is everybody else.

Mr. ASWELL. You say that Congress can not correct that situation?

Mr. ATKESON. I said that the telephone is a nuisance. I live two squares and a half from four or five grocery stores. My wife forgets about ordering things until about 15 or 20 minutes before mealtime. Before we had telephones I would lug in myself enough stuff to last a week, and we used to buy things very cheaply. Now, I do not carry anything. I get off the carline right where there are four or five grocery stores, and if she would tell me in the morning what she wanted I would try to get down there and get in the habit of doing that. That is what I used to do. Now, we do not carry anything from the grocery store in these days. Even if my wife goes up there and buys it the groceries are delivered to her. I do not blame her for not carrying them herself, because that is the game we are all playing now; but she actually pays 20 cents more for a 12-pound sack of flour by having it delivered, and I could carry it two squares for 20 cents myself. No, she jerks down the telephone and tells them to send it down, and then pays the bill.

Mr. PURNELL. There is no need of her carrying it because everybody else is not doing that?

Mr. ATKESON. Yes; and we all have to pay for that service.

Mr. ASWELL. You said that Congress could not handle this matter. How can it be handled?

Mr. ATKESON. As long as we can pay for it we are going to pay for it, and have the luxuries of life.

Mr. ASWELL. But that disaster you spoke of awhile ago is pretty near at hand, is it not?

Mr. ATKESON. That phase of it I do not think Congress can deal with at all.

Mr. PURNELL. I am glad to know that in your judgment there is something Congress can not do.

Mr. JONES. This is the first time I ever heard anybody admit that.

Mr. ATKESON. You consider automobiles a great convenience, yet they are literally costing this Nation billions of dollars to-day more than they are worth. You can just figure it in billions, and somebody has got to pay the fiddler. When I was a boy and danced, the fellow that danced paid the fiddler, and now somebody has got to pay him. We are engaging in these luxuries and we are flying high. Some of you will remember the old mythological story of Actius, who stuck on his wings with wax and undertook to fly across the Hellespont and fell in; that is, when he got in there it was Hellespont with the 'spont" left out. We are flying high now.

We are getting a little bit off the subject.

Mr. PURNELL. I think we are right on the subject.

Mr. JONES. So do I.

Mr. PURNELL. I think you shot at the deer and missed it and hit the cow.

Mr. ATKESON. Well, I promised myself and the chairman that I would not take over 15 minutes.

Mr. ASWELL. You have not offered any remedy. I would like to have your suggestion as to what should be done.

Mr. ATKESON. There is not any remedy, in my opinion, whatever that may be worth. These problems are economic and must solve themselves.

Mr. ASWELL. Then why devote our time to discussing them?

Mr. ATKESON. I do not expect Congress to solve them.

Mr. TEN EYCK. Did not our preceding witness give us a little suggestion along that line, in that a little more cooperation between the purchasers and the producers would cut out a lot of these difficulties?

Mr. ATKESON. Yes; cooperation may solve part of it.

Mr. JONES. Mr. Atkeson, let me ask you a question. Do you not think that this country could establish a sort of marketing system whereby the original products could be standardized, in a way, and publicity given so that the demand in one country would be known generally, and the supply in another section would be known, and then have the product graded in such a way that there would be a guaranty to the consumer that he could order direct and get around these distributors, and thus force them down, not so much for the purpose of distribution, but to force down the cost of these things.

Mr. ATKESON. We favor standardization and we favor cooperation, both on the part of the producers and the consumers, and we think that all the costs of distribution that can be reduced should be reduced, and many of the things you suggest will have some influence on the situation in reducing the costs, but the fact remains that there is this high cost of service of every kind, labor and high profits, and we must have high profits if we are to live up to this standard of living that we are living up to now, and somebody must pay the bill.

Mr. JONES. I understand that. Of course, it is not always true that the profits on every article are excessive, but occasionally they are. Now, if there were a system whereby you would not ship clear across the country always, but have a system whereby products would be concentrated close to the point of production and then wait until there is a demand, and then have a system of publicity whereby the local community that needed a certain article would know where to get that article of a certain guaranteed standard, then it could get it direct. If some of these fellows did not charge too much then perhaps they would not use this system much, but would have it as a check to hold those fellows down when they do charge too much.

Mr. ATKESON. All those questions are involved in a very intricate commercial system, and so far as they can be improved it is the duty of our commercial interests to improve them. I do not conceive it to be the duty of Congress to improve those conditions except to make laws under which they may function and operate.

Mr. JONES. Do you not think that even a system of marketing reports that are sent out aid in holding down these prices?

Mr. GERNERD. Do you not think that those reports help very much and that we ought to establish markets all over the country at advantageous distributing points to take care of your products and then have market reports that would give information about the supply and the demand?

Mr. JONES. That is what I was suggesting, that we have concentration points at various places and then have a system of publicity as to the points where these articles can be obtained direct, where the consumer can get in direct touch with a producer or producing organization and where he can order direct if the prices of certain articles get absurdly high. That plan would not have to be used very much. If that system were available, then these so-called profiteers would not be profiteering so much, would they? That is not an original idea of mine, I will say.

Mr. ATKESON. Whether we could do those things by legal processes is debatable in my mind. We know now where to get the things we want, and most of us go to the most convenient retail stores to get them.

Mr. JONES. You can not cure that, of course, but there are others who are doing without those things that really would be entitled to get them, and would get them, if they had a direct way of getting them.

Mr. CLARKE. I know of a large sheep grower who had two years' wool clip out in Montana that he had not disposed of. He came East and made arrangements with a mill and got all this wool made up into suitings. Then he got in touch with a number of the big copper companies and set a time when he would be at Salt Lake City and at Bisbee and Globe and different towns around in that country, and then he went around to those camps, taking his tailors with him, and he sold his entire wool clip in that way, and a man could get a suit of clothes made up for from $32 to $40, and they have been waiting up in New York for him to show up there.

Mr. TINCHER. Pardon me for referring to the subject matter under consideration by the committee, but, as I understood while you were giving your views on the subject, you think it is time that Congress passed some constructive legislation with reference to the packing industry of this country?

Mr. ATKESON. Yes, sir; that is right.

Mr. TINCHER. For several years your organization has had this subject up for consideration?

Mr. ATKESON. Yes, sir.

Mr. TINCHER. You think there are evils in the monopoly of the packer industry that require legislation along that line?

Mr. ATKESON. I think so; that is, I think there should be legislation dealing with the packers because of the magnitude of their undertaking.

Mr. TINCHER. After we get through with that if there is some gentleman who has a bill which will cure all the evils which you think probably can not be cured except by time then we will take that up?

Mr. ATKESON. Yes, sir.

Mr. JONES. Which bill do you think is the best?

Mr. ATKESON. I will come to that in a minute in an orderly way. I just want to make one remark about this, and then I will come to that.

In my study of the subject and in my make-up I can not possibly be a pessimist.

Mr. CLARKE. Can not be what?

Mr. ATKESON. A pessimist, that is, believe that this country is going to the bad. I think we will solve all our difficulties in some

form or other. I am just as far from being an optimist in the ordinary definition of the word "optimist," that believes everything is just as it ought to be and that it could not be made any better. So I have invented a new word which to my mind describes my state of mind, and that is the word "meliorist." You will not find it in the dictionary or anywhere. I believe it is the duty of Congress and every good citizen to do what they can to ameliorate or meliorate—both those words are found in the dictionary—the conditions that confront us. They are serious enough. The packer legislation is one of the things that I would do to ameliorate the present situation; I think they should be controlled, but in order to reach my conclusion in a more orderly way than I have been proceeding, our organization for a good many years has passed a good many resolutions, but they passed this one last year:

While recognizing the evils of uncurbed power growing from swollen fortunes in the hands of unscrupulous and ambitious individuals, the National Grange declares that in the government of a free democracy is lodged ample power to curb all such evils. We declare our opposition to Government ownership and to nationalization of business and industry unless clearly required in the public interest. We favor the safeguarding and protection of every right of private property on the broad ground that only by the full development of the right of private property can there be perpetuated the full measure of individual initiative and emulation upon which a democracy is based, and by which its future is assured.

Now, further on, during the same session of our organization last November, we passed this resolution which connects somewhat with the thought in the other:

The right of Government control of all trusts and corporations is fundamental and the grange demands that such organizations shall be subordinated to the interest of the public and operated without extortion or discrimination. We insist that profiteers, speculators, and corporations unjustly controlling prices and supply of necessities of life should be severely punished not by fine alone but by imprisonment as well.

Those that will read this bulletin will see that we have a good many things but dealing with the packers directly:

The instrumentalities for the distribution of food are matters of public concern. The grange demands that they shall be brought under Government registration and be made subject to governmental control with means provided to judicially investigate all operations and to correct abuses by such legally enforceable rules and regulations as public interest may dictate.

In those three resolutions you get our position on the broad principle of Government control. Also we are irreconcilable against Government ownership or any more interference of Government in business than is necessary to protect the common masses or the general public against extortion and exploitation by large capitalistic interests.

Mr. GERNERD. Is your thought similar to the Interstate Commerce Commission regulating the railroads—is that your idea with regard to the regulation of the packer interests or things of that kind?

Mr. ATKESON. The packer proposition is fundamentally different from the railroads.

Mr. GERNERD. I understand; but the same principle applies?

Mr. ATKESON. Yes; the same principle applies in the effort to restrain the monopolistic power of the packers or any other large capitalization, that is, whenever the packers become a menace to the common welfare, that the Government should at least restrain

and control them, even if secured legitimately, it is still the duty of Congress to restrain the greater power from imposing upon the less powerful and more or less scattered interests of all the people. We regard that as sound and economically safe, and in accord with the President's statement that he favors "more business in Government and less Government in business"—just as little Government in business as you must have and at the same time safeguard the interests of the public.

Just one word about the bill.

Mr. TEN EYCK. I should like to ask you one question.

Mr. ATKESON. Certainly.

Mr. TEN EYCK. Is it your idea that the Federal Trade Commission would be as good a body to supervise laws of this character?

Mr. ATKESON. I am pretty well agreed with what Mr. Anderson said yesterday, that the administrative authority in this legislation or in similar legislation is not of the first importance, it is what is in the legislation itself. If I were the President and wanted to give big business a clear bill of health and I had the appointive power of the Federal Trade Commission I would know exactly how to do it. I do not know any power in this Government that could be used to the same extent of giving a clean bill of health to the crooked business quite so promptly and efficiently as the Federal Trade Commission, if I were the President of the United States. I do not know whether you agree with that proposition or not.

Mr. TEN EYCK. I want to bring out your idea.

Mr. CLARKE. The power is tremendous.

Mr. ATKESON. As President, I could get a Federal Trade Commission that would protect the interest of the public in the administration of such laws as Congress might enact. As to a choice between the Federal Trade Commission, the Secretary of Agriculture, and a special commission to administer these laws, a good deal depends—in fact, everything depends—on the personnel of those administrative authorities.

Mr. TEN EYCK. Is not the administration of the law pretty nearly as important as the law itself?

Mr. ATKESON. It is perhaps more important, because even a bad law may be well administered or administered in the interest of the public, while a good law may be nearsightedly administered.

Mr. TEN EYCK. In passing a law to-day, that law would undoubtedly in some place or paragraph give the administrative authority to some commission or bureau or some other department of the Government, and that was my idea in asking that question.

Mr. ATKESON. I understood your motive in asking the question, and that is the reason why I was trying to answer it frankly. I know this: I am going to deal with the situation as I would like to see Congress. There is a large prejudice, if I may use that word, or disinclination to create new commissions with certain Members of Congress. I doubt the expediency of administering this law by the Federal Trade Commission. I think the most efficient administration would result from a special commission, where the whole responsibility was loaded and where you would have a commission created for that purpose. That would be somewhat expensive, and there are plenty of arguments against it; but my first choice would

be an independent commission. I would like to be the President just long enough to appoint the members of that commission.

Mr. McLAUGHLIN of Nebraska. Right there, you made the statement that that commission would probably be somewhat expensive.

Mr. ATKESON. Yes, sir.

Mr. McLAUGHLIN of Nebraska. I want to ask you this question.

Mr. ATKESON. Very well.

Mr. McLAUGHLIN of Nebraska. If such a law is to be effectively administered is it going to cost any more to support a new commission than it would the Federal Trade Commission or the Department of Agriculture or any other department?

Mr. ATKESON. I doubt whether it would. If the Secretary of Agriculture undertook to administer it he would have to have administrators.

Mr. McLAUGHLIN of Nebraska. Absolutely.

Mr. ATKESON. He could not do it, and it might cost more to start it. I can not answer that question, but I would call your attention to the fact that my first choice would be a separate commission and my second choice would be the Secretary of Agriculture. Assuming that the Senate passes a bill providing for a special commission, as they did before, and that the House is likely to pass a bill providing for its administration by the Secretary of Agriculture, then taking that viewpoint, I want to call your attention to one feature of what is commonly known as the Haugen bill:

Beginning in section 302 on page 12, as I have studied this bill I fail to see any reason for introducing two administrative factors or authorities. Maybe I am entirely at sea in regard to the matter, but if I were writing this bill I would substitute for "Interstate Commerce Commission," "Secretary of Agriculture" clear through. The result of my own cogitation over the matter is in line with the statement made by Mr. Anderson yesterday.

The CHAIRMAN. Mr. Atkeson, it is true that the Department of Agriculture has a large force of employees in the packing houses. It is also true that the stockyards and the stockyard service are a part of commerce. The question with the committee was whether it should be subject to the Interstate Commerce Commission or the Secretary of Agriculture, whether it should be under one head or should be divided. We invited the members of the Interstate Commerce Commission to appear before the committee, and the members of the Interstate Commerce Commission made it clear that they would be willing to take over the stockyards, as that is a part of the transportation service, but they did not think they should take over the packers, and for that reason they should be placed under some other control. Acting upon their suggestion, the subcommittee decided upon turning the stockyards and the stockyard service over to the Interstate Commerce Commission; and then there was a question whether the packers should be under the jurisdiction of the Federal Trade Commission or the Secretary of Agriculture. After giving it due consideration, it was thought that as the Department of Agriculture already provides a large force in the packing establishments, and the further fact that it had corrected a great many evils—as you well know, they have collected millions of dollars—I should not say millions of dollars, I do not know, but

large amounts for the shippers. I had one check go through my office for over $900 for excess charges for fees and service in the stockyards—with the machinery which they had and the splendid work the department has done, it was thought that the Department of Agriculture was the proper one.

There was a difference of opinion, many preferred the Federal Trade Commission. I agree with your view that the commission has been very active and has been prompt in making its reports, but with our experience with Government control I think you will agree, all will agree, that control by any commission has not been satisfactory. If you speak about conspiracy or profiteering you can take the reports and find that profiteering and conspiracy went on under Government control as they did before; they were not hampered or restricted very much, but the Secretary or the Department of Agriculture has corrected a great many evils.

Mr. CLAGUE. Is there any reason why it should not be the Secretary of Agriculture, which would obviate the possibility of duplicating a lot of work? We tried to get through a bill yesterday which would make the different bureaus function. If you create another board then you are creating a department which would have to go over and do a lot of work done by the Secretary of Agriculture and if placed under his charge we would not have that duplication of work.

The CHAIRMAN. If you give it to a new commission or to the Interstate Commerce Commission then you will duplicate much work, because the activities of the Agricultural Department are already in the packing houses. It is a matter to which the committee has given a great deal of consideration and were undecided about it, but finally came to this conclusion. There are three ideas, one to create a new commission, the other is to turn the work over to the Federal Trade Commission, and the other is to turn the work over to the Secretary of Agriculture. I think that is the only difference there is which exists between some of these bills.

Mr. ATKESON. Mr. Chairman, I was considering this bill purely from the standpoint of its being administered by the Secretary of Agriculture.

I amused myself sometime ago in preparing a packer bill, but I did not have the nerve to ask any Congressman to introduce it because I did not think that Congress would pass the bill if I did, but it provided that the railroads should own the stockyards. That is our disposition of the stockyards problem. That means, of course, that they would be brought under the Interstate Commerce Commission for administration, but as I have studied Mr. Haugen's bill, if the railroads are not to own the stockyards, and it does not so provide, it then seemed to me that if this law is to be administered by the Secretary of Agriculture that the Secretary of Agriculture should be given administrative authority over the stockyards, including the commission men and all other things that pass through the stockyards. This is not intended as a criticism at all. Maybe I am mistaken about it. If I were suggesting any changes in this bill it would simply be that change, that the "Secretary of Agriculture" be substituted for the "Interstate Commerce Commission" throughout the bill beginning with section 302. That is a mere suggestion.

Then, I should like to ask the chairman why he included in the definition of "live stock" mules and horses?

The CHAIRMAN. Because they have been included under the meat inspection act recently.

Mr. ATKESON. They may be dealt in, perhaps, that is the reason.

The CHAIRMAN. The packers now kill horses and goats.

Mr. ATKESON. I do not imagine that they buy many mules and horses in the packing houses?

The CHAIRMAN. Oh, yes; they do.

Mr. ATKESON. I just asked that question.

The CHAIRMAN. The Federal inspection provides for that and for that reason it was done. I do not think the committee thought it was very important.

Mr. ATKESON. Just one word and I will be through. I have taken twice as much time as I wanted to.

I believe psychologically as well as economically that the time has come to put on the statute books as constructive a piece of legislation as this Congress can put through to allay the state of public mind. I believe it would be good for business, I think it would be good for the common welfare. Of course, it should be a constructive law, without any malicious intent to do anybody any harm or any special interest any good but in the interest of the common welfare. It seems that the best bill that, in your wisdom, you can put on the statute books would be worth while at this time. For myself, after these 10 or 12 years of wrestling with this problem it has become nauseous like some of the pieces of meat we get from the packers. I have gotten tired of it. Those who have been on the committee and heard me talk about these things before have probably gotten tired of my talk. I want to relieve myself, you people, and the public, and I would be glad if Congress would put on the statute book the very best possible constructive piece of legislation that it is possible for them to enact.

Mr. TEN EYCK. You made the statement that personally you felt that the stockyards should be owned by the railroads?

Mr. ATKESON. Yes, sir.

Mr. TEN EYCK. Do I follow your mind along this line that the reason for that is the same reason that they now own the freight houses?

Mr. ATKESON. That is right. It is a part of the transportation business rather than the packing business. That is foreign to anything that we are likely to do.

Mr. TEN EYCK. Yes; I merely asked the question for information.

Mr. ATKESON. I thank you, Mr. Chairman and gentlemen of the committee.

The CHAIRMAN. We will now hear Mr. Marsh.

Mr. MARSH. Mr. Chairman, I want to make reference to a number of papers and do you mind if I sit down?

The CHAIRMAN. No, sir.

It is now 10 minutes after 12 o'clock, and what is the pleasure of the committee? Shall we take a recess and go on at 2 o'clock?

Mr. MARSH. Whatever time meets the convenience of the committee.

The CHAIRMAN. Without objection, the committee will take a recess until 2 o'clock p. m.

(Thereupon, the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 2 o'clock p. m., pursuant to recess, Hon. Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. The committee will come to order. The committee will hear Mr. Marsh first.

STATEMENT OF MR. BENJAMIN C. MARSH, REPRESENTING FARMERS' NATIONAL COUNCIL, BLISS BUILDING, WASHINGTON, D. C.

Mr. MARSH. Mr. Chairman and gentlemen of the committee, I am appearing on behalf of the Farmers' National Council and the Peoples' Reconstruction League. The Peoples' Reconstruction League is a nonpartisan union of National and State progressive farm and labor organizations, including several large railway brotherhoods and a number of the crafts, and also the general public.

I want to discuss in detail and specifically, Mr. Chairman and gentlemen of the committee, with your permission, some of the principles of packer-control legislation. In your bill—and I am sure you will understand, Mr. Chairman, that in making these criticisms, we mean nothing personal at all but are simply trying to address ourselves to the merits of the proposal. In your own bill there is no provision as we understand it for current supervision or registration of the packers. But your bill defines a number of illegal practices. For instance, in section 203, on page 4, it is provided—

> It shall be unlawful for any packer to (*a*) engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce.

By reference to the perpetual injunction issued by the Supreme Court in 1903 and modified by the mandate of that court in 1905 you will see that it is to exactly the same effect. In that injunction the packers—and of course this injunction applies to all packers but more particularly to those more directly concerned now in the matter of the proposed legislation pending before this committee—in that injunction they were prohibited in vigorous, plain Anglo-Saxon language from directing or requiring their respective agents—

> (*a*) To refrain from bidding against each other in the purchase of live stock; or (*b*) collusively, and by agreement, to refrain from bidding against each other at the sales of live stock.

And the said injunction continued along that general line. I think many of the members of this committee are familiar with that injunction; and if it had been enforced it seems to us it would largely have made such legislation as is here proposed unnecessary.

But the interesting point that I wish to bring to your attention is that there does not seem to be a court of law or any other power up to this date in the United States which can control the packers—I mean, under our present ignorance from day to day and month to month and year to year of what they are doing.

Therefore we very strongly recommend not only that there should be in a law that these things should be unlawful, and it is unlawful to-day for the packers to do these things, but the means should be provided whereby they may be properly dealt with.

If I may refer to a little of your own testimony, in part 31 of the hearings held a year ago almost exactly, this question was asked—

The CHAIRMAN. I understood you to say that no business man had ever been sent to jail; you had reference then to the packers, of course?
Attorney General PALMER. I think that is correct.
The CHAIRMAN. The question then is, why others are sent to jail in large numbers, and why prosecutions are successful as to one and not to another.
Attorney General PALMER. Under the Sherman Anti-Trust law?
The CHAIRMAN. Any law.
Attorney General PALMER. Don't misunderstand me, Mr. Chairman.
The CHAIRMAN. If it is possible to convict others, isn't it possible to make a law to convict the packers?

You may remember that discussion, which I am going into, and while I will not take the time to read the record I can give references if the committee want them. The Attorney General admitted that in his judgment there was cause for action against the packers; when he agreed to the terms of the decree with the packers he practically admitted that they had violated the law.

Therefore it does not seem to us that it is sufficient to merely enumerate the things which the packers should not do, because unless you have actual control over them and knowledge from day to day of what they are doing, they will do it and get by with the doing of it. They had this collusive agreement with the Attorney General, which was certainly against public policy—and we said so at the time, and said so even to the Attorney General. We said that it was improper to enter into an agreement with the packers if they had done nothing, and that if they had broken the law they should be prosecuted.

The packers are not afraid of any antitrust law—or, I say, they do not seem to have any fear of such a law. And why? Because of their experience with such laws in the past. They certainly do not seem to have any fear of such laws. What they are afraid of is some one knowing what their business really is. That is the reason why they denounced the Federal Trade Commission for its full, impartial, and accurate investigation of the meat-packing industry. And that is the reason the super government of the United States, the United States Chamber of Commerce, came to the defense of the packers and attacked the Federal Trade Commission for showing up the facts.

Now, Mr. Chairman and gentleman of the committee, the very opposition as we view it, the very objections which the packers made to the investigation by the Federal Trade Commission, is an argument for a distinct and separate commission to be charged with the supervision of the conduct of the business of the big packers, and of those others who are included in this bill and are to come under the supervision of such a commission, or of any of these bills providing for supervision by the Secretary of Agriculture or the Federal Trade Commission or a separate commission.

It seems to us that it would be perfectly futile merely to write into a law that something is illegal that the Supreme Court has already declared to be illegal and has enjoined the packers from doing. Therefore we very strongly urge that in drafting packer-control legislation you shall provide a separate commission; and I would like to take up the reasons for that kind of control.

In the first place, the packers have had a long and unenviable record. They have been thoroughly investigated. The public has been aroused and is aroused now to the need for some control over the meat-packing industry. Probably you will recall the Weekly News Letter of the United States Department of Agriculture of February 16, this year, in which it calls attention to the big decrease in live stock on farms during the last year. It reports nearly 10,000,000 less head on January 1, 1921, than on the same day in 1920. The reduction in milch cows was 298,000, for cattle 1,180,000, swine 5,078,000, and sheep decreased 2,047,000.

Now, Mr. Chairman and gentlemen of the committee, that indicates an extremely serious situation in agriculture, and fully as serious, as we all realize I believe, for the consumers of live stock and meat products in the cities and everywhere else.

The vastness itself of the meat-packing industry and its ramification into a great many industries, unrelated lines, which we do not believe has been entirely stopped by the consent decree, requires, in our judgment, more attention, more careful study, than the Secretary of Agriculture, through subordinates, can give to it.

I want it distinctly understood that this statement is in no way intended as a criticism of the Secretary of Agriculture. But a business like that of the meat packers, which for 12 years has been able to defeat any and every effort to find out the facts about them, as far as Congress is concerned, and to prevent the enactment of any legislation by the Congress, is too complex and too big a concern for any subordinate in any department of the Government to handle, in our judgment.

I want you to note the fact that the investigation made by the Federal Trade Commission was not the result of a resolution adopted by the Congress, but, as you will recall, was because of specific and direct instructions by the President of the United States to the Federal Trade Commission.

The CHAIRMAN. One investigation was in response to a resolution of the Senate, was it not?

Mr. MARSH. One whitewash investigation, yes; but no real investigation was ever made until that made by the Federal Trade Commission.

Mr. JONES. There are certain duties that are charged to the Federal Trade Commission that cover, at least in part, the packing industry as well as some other industries. Do not you think if you create a commission you ought to take away all of the powers of the Federal Trade Commission with reference to the packers? In other words, will not you waste in large measure what the Federal Trade Commission has done, or at least duplicate its activities or necessarily complicate the authority and duties of the Federal Trade Commission in so far as they cover the field of the packers, should you have a separate commission?

Mr. MARSH. The function of the Federal Trade Commission up to date has been largely one of investigation of complaints.

Mr. JONES. Investigations of complaints will always precede action?

Mr. MARSH. Yes. But I want them to keep at that. They have a lot more of that to do. They have made about as complete an investigation as can be made, but there is more to be done along other

lines. They have made certain recommendations for dealing with the evils they found to esxit in the meat packing industry.

In our opinion, and I presume your consideration of this legislation indicates that you agree that the consent decree does not settle the packer situation, we have got to have legislation. So far as the Federal Trade Commission is concerned it has to do a lot of other things. There is the steel trust which is on for a good investigation, and the coal trust, and all the other trusts.

Mr. JONES. There is a limit to Government activity. You would not advocate a separate commission to deal with every big business, would you?

Mr. MARSH. I think we have to proceed in government more or less along experimental lines. You are asking me some particular questions which I will answer you from a personal standpoint, if I may. Personally I do not think you need to have a separate commission for every big industry. But here we have an industry that vitally affects every person in the country, both producer and consumer. And there is such utter disregard of law by it that it seems to us with its many ramifications, which include retailing, which include the relation of the packers to cooperative marketing and direct trading, that it justifies and requires a separate commission.

And in this connection I am inclined to think that within a very few years we are going to come to adopt the principles of what is known as the Steele bill for a Federal licensing system under the Federal Trade Commission or some analogous Government agency. Of course that subject is not before this committee now, but we are talking about this great industry and its extended ramifications, and in considering such a subject we have to consider some experiments.

I want to say that personally I would not favor giving such a commission sumptuary powers to stop the packer's business no matter what his crime may have been. He is engaged in a very important business, one which affects all the people of this country, and I would favor, no matter what he may do, that he might have a proper investigation, and probably recourse within a reasonable period of time to the courts. I think that should be provided for.

In answer to the question whether the Federal Trade Commission has the opportunity and the time to go into this important matter thoroughly is a serious question to consider. You have got to have men of a certain caliber. The Secretary of Agriculture can not give it his personal attention. If I understand the situation correctly the members of the Federal Trade Commission can not give much of their individual time to it.

Mr. JONES. Of course there are many things the Secretary of Agriculture can not give his personal attention to, so far as the details are concerned, that he must investigate and know about and take action upon. But he gets information through various sources, and could get such information as would bear upon this question as in the case of any other question that affects agriculture. By paying proper salaries he could get just as big men to work under him as on a separate commission, if the salaries paid would justify their rendering that service. So why could not he, by virtue of having such men to make an investigation and to correlate those facts with facts secured from other sources, be in just as good position to take effective action as a commission would be?

Mr. MARSH. I conceive that he might be. Nor is it fair to judge from the fact that a great many men in the Department of Agriculture have gone from there to very highly paid employment with the packers, there would not be complete independence in that department.

But let me stress the matter again. We are dealing with a group of men who have challenged the authority of the American Government time after time, who have held up action in the Congress for 12 years, who have defied the courts, and who got the Attorney General to go into an agreement with them. And if you will read the Attorney General's admission—and, of course, I refer to the preceding Attorney General, Mr. Palmer—you will realize that it was a very sorry procedure.

Perhaps you could get five men to go in and work under the Secretary of Agriculture, or the Federal Trade Commission, and that might be the best way to do it ultimately, but we do not think so. We think that the ramifications of this business are such as to require the full time and attention of a separate commission, although the Secretary of Agriculture might well be ex-officio a member of the commission.

Mr. WILLIAMS. You made the statement that the packers had defeated the courts. When was that done, and in what way?

Mr. MARSH. I say that was done, as I had explained to the committee just before you came in. There was a temporary injunction issued on April 22, 1903, and confirmed by the United States Supreme Court on April 11, 1905, prohibiting the packers—Swift & Co., the Armour Packing Co., Nelson Morris, J. Ogden Armour, Edward C. Swift, Ferdinand Sulsberger, and others—from doing the very things which the Federal Trade Commission found that they were doing. I mean, that the Federal Trade Commission has recently found that they have continued to do. They continued, according to the report of the Federal Trade Commission, to do these things in defiance of the Supreme Court, things that would land any poor man in jail.

Mr. WILLIAMS. That was defying the Federal Trade Commission, if anything.

Mr. MARSH. Well, the Federal Trade Commission delivered the goods.

Mr. JONES. Was there any effort to carry out this court injunction and bring proceedings before it for violating the injunction?

Mr. MARSH. The last record I remember was where the Attorney General, in some dark spot, got into conference with them. Will you let me read you some of his statements so they may go into the record?

Mr. TEN EYCK. Was that the fault of the Attorney General in 1903, because he did not follow the matter up at that time?

Mr. MARSH. I do not know really where the fault lies. I think it was probably his fault as well as the fault of the last Attorney General.

Mr. TEN EYCK. It would not be the fault of the last Attorney General for something that occurred in 1903?

Mr. MARSH. Oh, no. It would be his fault for any failure to take action at that time, but it was the fault of the recent Attorney General for not taking action the year before last.

Mr. TEN EYCK. But the case you bring out here occurred in 1903. I am asking whether the Attorney General in 1903 was the Attorney General at fault for not taking action in that case?

Mr. MARSH. I should say there was a continuing fault, but with this qualification which I stated before you came in, that merely enacting criminal laws and making certain things crimes, unless you can know currently what is being done by the packers, is not worth very much, in our judgment.

There was handed down on yesterday an opinion by the Supreme Court that Congress has no jurisdiction over the amount of money that can be spent by a candidate in a primary. That as it seems to us is a most extraordinary thing.

Mr. THOMPSON. That was not the decision. They limited the amount of money any candidate could spend, not in the aggregate. That was the decision.

Mr. MARSH. Well, it comes down to the same thing.

Mr. WILLIAMS. The court held that the Congress did not have power to enact legislation regulating the powers over primaries in the States. That is a State function they decided.

Mr. JONES. That was merely as to the matter of holding primary elections in a State.

Mr. MARSH. I was merely illustrating what happened.

Mr. WILLIAMS. You are criticising the United States Supreme Court, it seems to me.

Mr. MARSH. It seems a very strange reasoning to my mind that a candidate for a national office should not be subject to national legislation.

Mr. WILLIAMS. But if that is the law according to the Constitution of the United States isn't the Supreme Court doing perfectly proper and properly discharging its duty when it announces the law?

Mr. MARSH. The thing I want to bring out is that showing the fact that a man is spending these great sums of money will probably be as effective in defeating him as would the enactment of any law. And as to the packers, having a means of getting and furnishing information as to what they are doing will probably be as effective in promoting the public good as anything that can be done. And in this connection I am urging a system of registration for the packers, so that we will know currently what they are doing.

Mr. THOMPSON. Have you read the Haugen bill, which is before this committee?

Mr. MARSH. Yes, sir; several times.

Mr. THOMPSON. What is your opinion about it?

Mr. MARSH. Well, I think many of its principles are very admirable. We were discussing whether we want to have a registration system, and whether we want to have current information about what the packers are doing instead of making certain things unlawful, and then when the Secretary of Agriculture, as is provided for in this bill, is informed he will institute proceedings against them.

Our idea is to have complete and continuous control over them rather than to rely upon criminal prosecution occasionally.

On yesterday you had before you Mr. Wells, who told you how they were handling the situation in the stockyards at South St. Paul.

As it seemed to me they were handling their local situation most effectively. We think the same principle should be applied to the entire business of the packers. There should be some knowledge, currently, of what they are doing. There should be some registration of them. The Government should be in touch all the time with what they are doing, not with a view to instituting prosecution, but to holding them in check and to correct the evils as they occur.

Let me repeat again, as other members have come in since I began my talk, and I do not want an improper impression to get out—that we are not in favor of sumptuary or hasty legislation.

Mr. THOMPSON. Do you favor such legislation as has been provided for the Interstate Commerce Commission in its control over railroads?

Mr. MARSH. I am in favor of such control over the packers as the Interstate Commerce Commission is supposed to have over the railroads when the Congress does not interfere with its functions by such a law as the Cummins-Esch law.

The CHAIRMAN. You spoke of the investigation and report of the Federal Trade Commission. Isn't it also true that it was done in cooperation with the Department of Agriculture, and that the President ordered that it should be done in cooperation with that department?

Mr. MARSH. I think not.

The CHAIRMAN. Let me read you from the President's letter:

> The Department of Agriculture has been engaged for several years in studying problems of distribution. I have noted that it has been proposed in the Congress to add to the funds of the department and give it larger powers to conduct its investigations. As its activities will touch phases of the problem I am calling to your attention which may not be covered by your inquiry, and may furnish information of great importance for the purposes contemplated, I shall direct that department to cooperate with you in this enterprise.

Mr. MARSH. That referred to the investigation, if I understand it.

The CHAIRMAN. Yes. But isn't it a fact that the Department of Agriculture has been instrumental in eliminating more evils than any other department we have, particularly in the matter of the stockyards?

Mr. MARSH. You mean more evils in connection with the packing industry?

The CHAIRMAN. Well, in connection with the stockyards and the packing business. The packers operate all of the stockyards?

Mr. MARSH. You are speaking about a matter and asking me to make comparisons which may be regarded as invidious and distasteful to other departments.

The CHAIRMAN. It is due to that department's activity that I should say this. I am not charging that any other department might not have accomplished as much, but owing to its activity the Department of Agriculture has accomplished more perhaps than any other agency we have.

Mr. MARSH. Answering your question very directly I will say I can not agree with you.

The CHAIRMAN. Well there are many people who will agree with that statement.

Mr. MARSH. Very well. Continuing, the Federal Trade Commission received its instructions to undertake this investigation on February 7, 1917, and they made their report under date of July 3, 1918. I

know that I personally tried to get from the Department of Agriculture what they were going to do about this investigation of the live stock end of it but could not drag it out of them. Do you know whether they have made any formal report on that subject yet?

The CHAIRMAN. I say they are cooperating with the Federal Trade Commission, and have been doing so all these years, and we have made appropriations for that purpose.

Mr. MARSH. But they did not report in that investigation which they were ordered by the President to make. That is the point I am trying to stress. Why did they hold it up? We made an effort in the Farmers' National Council, and have not succeeded in getting full information yet from the Department of Agriculture as to the cost of production, and only recently have we received some tentative report, but not a satisfactory one.

The CHAIRMAN. They are engaged in a number of activities.

Mr. MARSH. Yes; and it is because of that we have assumed, and I think correctly, that the supervision of this vastly important industry should be vested in a separate commission which does not have to take up all the activities and engage in all of the work that is done by the Department of Agriculture.

The CHAIRMAN. I do not want to rob the Federal Trade Commission of any credit that may be due that commission, but simply wanted to get before you that the Department of Agriculture has been instrumental in bringing about certain results.

Mr. MARSH. Well, I can not concede for a moment that the Department of Agriculture has rendered any service in this respect. It seems to me that they have almost tied up the Federal Trade Commission in this investigation. I do not mean to be captious in my criticism, but that is the only conclusion I can reach.

Mr. ASWELL. Why not turn this matter over to the Federal Trade Commission then?

Mr. MARSH. There has been that suggestion. Inasmuch as you were not here at the beginning of my statement I will repeat briefly what I said——

Mr. ASWELL (interposing). No; I do not want you to repeat anything for my benefit. I will get it.

Mr. MARSH. We feel that the Federal Trade Commission now has several other great big trusts on its hands. They have started an investigation of the Pittsburgh base, which if carried out, will reach into a great many different lines of inquiry, and there is the coal industry and the harvester trust.

Mr. ASWELL. Have you made any estimate of what a separate commission would cost the Government, in the conduct of all of its operations and the payment of salaries of its members and employees?

Mr. MARSH. No, I have not; but I think this is a fair statement, that it could not be very much larger than the amount that would be necessary in order to do the work in the Department of Agriculture. I doubt if it would require very much more money. The only conclusion you can reach is that the Department of Agriculture is wasting money to-day, if you say it would not cost much more for them to supervise the packers, or I will not say wasting it, but it is not using it as well as it might.

Mr. ASWELL. How many members of such a commission do you recommend?

Mr. MARSH. I think there should be a commission of at least five.

Mr. ASWELL. At a salary of $10,000 each?

Mr. MARSH. I should give them at least $10,000 each.

Mr. ASWELL. And expenses?

Mr. MARSH. Well, traveling expenses in connection with their business.

Mr. ASWELL. Then such a commission would cost the Government several hundred thousand dollars.

Mr. MARSH. It would probably cost several hundred thousand dollars. But if it would restore confidence in this country on the part of the live-stock producers, if it would bring a little hope to the 3,250,000 or 4,000,000 men and their families now out of employment and get us back to normal conditions, and if we could convince the American people that the American Government is bigger than the packers, it would be worth a million dollars a year. And that will be some job.

Mr. ASWELL. Do you think that the packers are responsible for the present condition of unemployment?

Mr. MARSH. No; I do not say that. They have enough to answer for without laying to their doors circumstances over which they have no control.

Mr. WILLIAMS. Do you believe that many people think the packers are bigger than the Government.

Mr. MARSH. I think there are a very great many who think so. Don't you?

Mr. WILLIAMS. I have never heard many people express that opinion.

Mr. MARSH. They have often asked me: "Why don't you get legislation?" I have recently spoken at Lincoln, Nebr., and St. Paul and Minneapolis and Chicago and Detroit, and discussed this packer situation, and they have asked me time and time again: "Why don't they enact packer legislation?" What could I say to them?

Mr. JONES. The criticism in my part of the country has been not that the Government is not big enough to deal with the question, but the question which engages the thought of the people is: What legislation is necessary? And whether we can legislate and do good without doing more harm than good to an efficient business organization. That is the thing that is bothering the people in my country.

Mr. MARSH. Where is that, in Texas?

Mr. JONES. Yes; in northwest Texas; and I represent a stock country, too.

Mr. MARSH. Isn't it true that the packers have been down to nearly every meeting of the Texas Cattlemen's Association?

Mr. JONES. Oh, yes; they always have representatives everywhere, you know, when anything affecting them is going on. You can not criticize that on their part. That is true of every industry and of every set of people. I believe the people of my section of the country think that some regulatory legislation should be adopted, but they do not know what it should be.

Mr. MARSH. And that is the reason why our people think a commission is necessary, because we think it would be the best way to get current information.

Mr. Chairman and gentlemen of the committee, let me repeat that we are not suggesting at all that there should be as drastic legislation as has been suggested in some of the bills before the Congress on this subject. We do not suggest that the commission should have power to tell the packers that they shall refrain from engaging in related or unrelated businesses. We are believers in publicity in matters affecting the public. Our proposition is to get information currently. There is a big difference between administration and legislation. The Congress can not exact all details of administration. It is hard to set it out in legislation. But you can select a commission and in a year or so they can collect a vast amount of information and from experience may modify some of their practices. I think it is perfectly plain that before rules and regulations are promulgated, and before a violation thereof is made a felony or a serious offense, and before any action could be taken which would seriously handicap the business of the meat packing industry—because that is a business that must continue uninterrupted—there should be a hearing at which both sides should be represented.

As to the matter of registration, of course that is not popular with gentlemen who do not want to be registered. I have observed that prohibition never hurt folks who do not drink, and I have observed that registration does not hurt folks who have not something they want to conceal.

I want to make another suggestion right on this point, Mr. Chairman. Your bill provides, as do some others, that ultimately there shall be a uniform system of accounting. We think that there ought to be a definite provision in any packer control legislation for installing immediately a system of uniform accounting.

And in this connection I just want to read a little bit from page 37 of the Federal Trade Commission's report to the President:

> Further evidence of the existence of a conspiracy among the five big packers was found in the vault of Henry Veeder, in the form of documents relating to funds maintained by the packers and oleomargarine manufacturers, primarily for the purpose of protecting themselves from punishment for the divers practices already described in part.

And the gentlemen referred to there, Mr. Henry Veeder, now sits in this room.

> These joint funds, as will be shown in one of the sections of the report, were used:
> To employ lobbyists and pay their unaudited expenses;
> To influence legislative bodies;
> To elect candidates who would wink at violations of law, and defeat those pledged to fair enforcement;
> To control tax officials and thereby evade just taxation;
> To secure modifications of governmental rules and regulations by devious and improper methods;
> To bias public opinion by the control of editorial policy through advertising, loans, and subsidies, and by the publication and distribution at large expense of false and misleading statements.

Mr. CLARKE. Who makes this report?

Mr. MARSH. The Federal Trade Commission.

The CHAIRMAN. Don't you think this provision on page 10 would cover that?

> Whenever the Secretary finds that the accounts, records, and memoranda of any packer do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept. * * *.

Mr. MARSH. You do provide ultimately for it, but we suggest that this be mandatory from the very beginning, because I assure you that gentlemen who have to be so carefully investigated as were the packers by the Federal Trade Commission can conceal a great deal, so much so that the supervising agency, and I do not care whether it be the Secretary of Agriculture or the Federal Trade Commission or a separate commission, without vast expenditure, could not find out all that is going on.

Mr. CLARKE. Has this evidence been placed in the hands of the Department of Justice so that it could prosecute the packers if they were resorting to illegal practices?

Mr. MARSH. Yes. And if you will pardon me just a minute, I will tell you what the Attorney General said.

Mr. CLARKE. I don't care what he said, what did he do?

Mr. MARSH. He said——

Mr. CLARKE (interposing). Who was the Attorney General then?

Mr. MARSH. The Attorney General last year was Mr. Palmer. But the Attorney General in 1903 was someone else, and I do not care to what political party the Attorney General belonged, because I do not belong to either political party, but am nonpartisan.

Mr. CLARKE. We do not care about that either. We merely want the facts.

Mr. MARSH. The decree was issued in 1903 and made perpetual in 1905 by which the Supreme Court prohibited the packers from doing what they were doing right along. We are not trying to criticize the Attorney General, but to point out the method that has been followed hitherto to make certain conduct an offense or a felony and then relying upon court action to catch any great big criminal has failed. In that respect it has proved ineffective. What we have got to have is current supervision of such vast aggregations of capital.

And I am going to state what is a fact, that after the packers had been convicted—well, pardon me, I will change that, because it was not in a court of law—but after having been proven by the Federal Trade Commission to have done all these things with their joint funds, and here is the pro rata distribution of the expenses—that instead of waiting for them to do some more of it and hoping to detect them in it, it is essential that we should have a uniform accounting system immediately installed. This is necessary in order that we may know exactly what they are doing.

As Mrs. Kelley's testimony illustrated this morning, suppose we had a budget showing so much appropriated for the New York papers, and so much for farm papers, and so much for educating young women in the boarding schools, and so much for educating Congressmen of mature years, and so much for a prohibited beverage in the New Willard Hotel, and all the way along down the line; suppose we had a segregated budget, and knew where this money goes to, wouldn't the situation be different? When I was here before I asked Mr. Weld, of Swift & Co., whether Swift & Co. had any legislative fund and he said he did not know.

Mr. CLARKE. Was this money contributed from a common fund or was it contributed by certain packers?

Mr. MARSH. The Federal Trade Commission reports as follows:

In 1917, for example, the membership of the Oleo Pool and the percentages used in collecting the joint funds were as follows:

	Per cent.
A. (Armour & Co.)	12.387
F. (Friedman Manufacturing Co.)	6.246
J. (John F. Jelke Co.)	32.172
M. (Morris & Co.)	10.481
W. J. M. (W. J. Moxley (Inc.))	11.563
W. (Wilson & Co. (Inc.))	4.265
H. (G. H. Hammond Co.)	3.652
S. (Swift & Co.)	19.234

Let me read you this very nice letter from Mr. Alfred R. Urion, former general counsel for Armour & Co., to Henry Veeder:

I give you the following information to be disseminated amongst those who are associated with us in Pennsylvania oleomargarine. The source of my report you are familiar with. I give you letter on the subject received Saturday:

"Have been given positive assurance by the big man that there will not be any suits brought in this State during the time named on tinted goods, provided they are not too yellow; that is to say, you must not go to extremes in color, but that the regular run of tinted goods will be all right. The wholesalers and manufacturers should not go further in spreading the understanding than to simply notify their trade verbally that no suits will be brought and that there will be no trouble in their handling natural tinted goods."

I have gone back to the party by letter and asked to get a definite statement from the big man, calling off the State agents from taking samples and frightening the trade, and have no doubt will receive a favorable answer thereto.

Now, Mr. Chairman and gentlemen of the committee, we submit that in the light of that information and the proven facts, although the name was not disclosed, and it does not need to be, that you should have a uniform system of accounting required of these packers before you can have any effective control over them and know what they are doing with their money. If they are so poor how do they subsist? If they are as poor as they claim to be could they continue without legislation to help them? If they are as rich as they claim to be when selling stocks and bonds, as rich as they were when the representative of Armour & Co. went to see the representatives of the Federal Trade Commission and tried to get the examination called off so as to escape some of their income-tax payments, then let us have some legislation in their favor to give them relief. But, seriously, the farmers, who are in a bad fix, are entitled to some relief from this situation.

Mr. ASWELL. If the Congress were to remove the tax from oleomargarine there would be no necessity for all this investigation, would there?

Mr. MARSH. There is something far more important than that. They are selling adulterated goods as butter, and thereby injuring the legitimate dairy industry and requiring the consumer to pay a price sufficient to buy good butter for inferior, I will not say poisonous, oleomargarine.

Mr. ASWELL. Your statements do not agree at all with the statements of the scientific world about oleomargarine. Besides, if you were to remove the tax and let all go in at the same price there would be no attempt to color it. The pure-food law would cover that.

Mr. MARSH. I think the gentleman is wrong on the subject, and the packers manufacture a very large proportion of the oleomargarine sold in this country.

The CHAIRMAN. If we are to go into a discussion of oleomargarine I am afraid it will take up a lot of time. Let us confine ourselves to the packer bills now before the committee.

Mr. MARSH. Mr. Chairman, I will be very glad to give one or two references to what the Attorney General found about the packers. Mr. Voigt, at the hearings before your committee held in April, 1920, asked some questions of the Attorney General, and the latter made this answer with reference to his investigators and attorneys:

They were of the opinion that all the facts relative to division of territory and division of production, and so forth, and the distribution and sale, all taken together, presented a case which justified the department in asking for a decree to restrain them from monopoly or combination in restraint of trade.

Before the Senate Committee on Agriculture and Forestry the Attorney General said, in answer to a question by Senator Norris, speaking of the packers:

I think they have violated the Sherman antitrust law; that is both a criminal and a civil statute, Senator.

Then he continues——

Mr. CLARKE (interposing). You are referring now to Mr. Palmer?

Mr. MARSH. Yes, sir.

Mr. CLARKE. Continue your answer.

Mr. MARSH. The Attorney General continued:

I say very frankly—I do not want you to mistake my conclusions—I have never said a word about criminal prosecution, but having forced them into the position where they have agreed to go as far as that in meeting the Government position, I would think I was doing a very improper thing to attempt to convict the individuals in a criminal court, and I would be moved to that consideration a good deal by the practical difficulties in the way of getting convictions.

What were those practical difficulties? I do not need to answer it, because we all know that gentlemen of splendid wealth, the packers, know how to postpone action. And the best proof of the necessity for this legislation is in the fact that we have had not only legislation to a certain extent in the different States, but we have had the decree of the Supreme Court which has been violated year in and year out by the packers since 1905.

Mr. ASWELL. If that is true, and I have no right to question it, what is the use of passing any more legislation? They will violate that, too.

Mr. MARSH. May I use an illustration? It is not a story. There was a very eminent clergyman in New York, Dr. Parkhurst, who said, "The wicked flee when no man pursueth," but he added, "they go a great deal faster when the righteous are after them." The packers will be much more apt when they know that their course of conduct is under a competent regulating agency which will not only make them step rightly but lively, with penalties that can be applied later; I say they will be much more apt to do the right thing.

I am inclined to think that ultimate revocation of the license, when their case is proved before a court, would be effective. But we are not urging that now. What we want now is absolute publicity in the matter of this business, one of the greatest aggregations of capital in the country.

There is another point I want to take up, and I want to read this statement of the Federal Trade Commission before I speak of stock-

yards and transportation facilities. The Federal Trade Commission in its summary says:

If these five great concerns owned no packing plants and killed no cattle and still retained control of the instruments of transportation, of marketing, and of storage, their position would not be less strong than it is.

The producer of live stock is at the mercy of these five companies, because they control the market and the marketing facilities and, to some extent, the rolling stock which transports the products to the markets.

The competitors of these five concerns are at their mercy because of the control of the market places, storage facilities, and the refrigertor cars for distribution.

The consumer of meat products is at the mercy of these five because both producer and competitor are helpless to bring relief.

Now, Mr. Chairman, we urge that packer-control legislation shall go further in view of these statements of the Federal Trade Commission, which are supported by adequate evidence; shall go further and specifically require the railroads, within a given stated time, to acquire all the principal and necessary stockyards, about as outlined in the pending legislation, and shall provide refrigerator and specially equipped cars.

Mr. ASWELL. How will they finance that matter?

Mr. MARSH. I will be glad to answer that. We made a suggestion along this line to the President the other day, and we are to see the President to-morrow afternoon about it. The railway brotherhoods have shown that close to a billion and a quarter of dollars have been wasted by the railroads since the Cummins-Esch law was enacted by the Congress of the United States.

Mr. ASWELL. Where has that been shown? Is that Lauck's testimony?

Mr. MARSH. A part of it is that.

Mr. ASWELL. I do not think that can be adduced as proof. That is a statement of opinion, and not proof.

Mr. MARSH. Well, they have presented figures, which have been damned but not disproved. I am waiting for disproof to be produced by the railway people. And I am going to tell you this, that the stockholders themselves have been making an independent investigation of the situation, and I think they are pretty much perturbed, from the statements they have issued. We have suggested to the President that this matter be turned over to the Attorney General for investigation as to what can be recovered.

Of course the Cummins-Esch law did require the railroads to furnish special equipment, including refrigerator cars. I wrote to the chairman of the Interstate Commerce Commission asking how many refrigerator cars the railroads had furnished up to date. He was unable to give me the exact information. But I can summarize it, and I call to your attention that the packers owned, when the railroads were returned to their owners, 93 per cent of the total of all kinds of cars owned by interstate slaughterers, including refrigerator cars, open-top cars, etc.; and 91 per cent of all refrigerator cars properly equipped for the transportation of fresh meats.

Now, these railroads that have squandered a billion and a quarter of dollars—I do not say it has been absolutely proved, but that seems to be the situation—how many refrigerator cars do you suppose they have provided up to the first of this year? Four thousand seven hundred, according to these figures, while the Pacific Freight Express Co. has provided 4,000.

Mr. CLARKE. They are approximate?

Mr. MARSH. Yes. This list was partially taken from the Railway Age of January 7 and is substantially correct. The Atchison, Topeka & Santa Fe Railway provided 2,500 refrigerator cars.

Mr. ASWELL. What is the total number of refrigerator cars in use?

Mr. MARSH. I do not know how many thousands there are. I have seen the figures, but I do not remember.

Mr. ASWELL. What percentage is that of the total?

Mr. MARSH. I will get the figures and let you know, but it is certainly only a small percentage.

Mr. TEN EYCK. Who was it that ordered them to get these cars?

Mr. MARSH. It was under the Cummins-Esch law. It said special equipment cars. It did not say specifically refrigerator cars, but I talked to Mr. Esch regarding the matter and he said they were included.

Mr. TEN EYCK. What recommendation would you make as regards the railroads financing the matter of getting these cars?

Mr. MARSH. What was that question?

Mr. TEN EYCK. What arrangement was made to finance the railroads in order for them to purchase these cars?

Mr. MARSH. They were given a big revolving fund. They were given what was tantamount to a guarantee of a return of 5½ to 6 per cent; and they have been advanced, if my memory serves me right, $1,205,000,000 since the railroads were returned under the Esch-Cummins law.

Mr. TEN EYCK. I understand as to the revolving fund. What was given specifically for refrigerator cars?

Mr. MARSH. I do not think there was any specific allotment as to refrigerator cars. But when you open the Treasury doors of the United States to the railroads you would think you would do something for the farmers in the matter of refrigerator cars.

Mr. ASWELL. According to your statement under the Cummins-Esch law they were directed to get refrigerator cars and provided with money with which to do it. Now, what legislation do you want?

Mr. MARSH. I am glad you raised that point, because it is another that I wanted to mention. I think the Congress, and this committee, ought to get right after the Interstate Commerce Commission.

Mr. ASWELL. I agree with you.

Mr. MARSH. And see to it that these refrigerator cars are provided.

Mr. TEN EYCK. That is what I was trying to bring out. Isn't there a commission to handle this very thing—transportation; so the question is, whether we should legislate on that particular subject at this time.

The CHAIRMAN. In the Cummins-Esch law it was left to the discretion of the Interstate Commerce Commission as to requiring the furnishing of cars.

Mr. MARSH. Yes; and I want to go further on that. There is a very vital distinction between the Cummins-Esch law and our recommendation. The Cummins-Esch law does not require the railroads to acquire all the refrigerator cars and special-equipment cars. We wish legislation which would make it mandatory upon the railroads to acquire all the refrigerator cars and special-equipment cars because the investigation and findings of the Federal Trade

Commission show, in the matter of these peddler cars, the private ownership of these cars by the five big packers gives them a great power over the independents.

The CHAIRMAN. Why should the railroads acquire all the refrigerator cars?

Mr. ASWELL. Answer this in addition to that: Wouldn't that make it impossible for the packers at times to be able to get cars in an emergency, say, to ship out meats on time?

Mr. MARSH. My reason for suggesting that is that the small independent has not much capital. These cars do not cost so much for the big man, but it is uneconomical to require the investment of, say, $25,000 or $50,000, on the part of a small plant that has not big capital and when it is not using them continuously. Furthermore, it is foolish to run a particular refrigerator car from one part of the country to another simply because that car belongs to a particular company.

And that brings me to say that Government operation of railroads was the most economical we have ever had, according to the facts, but not according to the propaganda, because you unified all the equipment. You will recall that section 15 of the Cummins-Esch law specifically provides when the Interstate Commerce Commission thinks an emergency exists or is threatened it may order a pooling of all equipment of railroads, and joint or common use of terminals. That provision which the Congress wrote into the Cummins-Esch law of 1920 illustrates one of the reasons why the railroads should be required to own all the refrigerator cars—that they may be shipped in a hurry to the points most needed, and save an enormous amount of idle haulage, which of course is a great expense.

I am not a practical stock man, but Mr. Laseter, a very practical stock man, has shown to you that the shrinkage on a long haul on a head of cattle means from 5 to 8 or 9 per cent, in order to get same to the place where it may be slaughtered. That is entirely waste. It does not mean something in the pocket of the packer, but it is an absolute waste, and is one thing that has hit agriculture very hard.

That is one answer to your question as to acquisition of refrigerator cars, Mr. Ten Eyck.

Now, Mr. Aswell, have I answered your question?

Mr. ASWELL. No; I do not think you have.

Mr. MARSH. Well, will you repeat it?

Mr. ASWELL. My question was if the railroads owned all the refrigerator cars and the packers owned none, wouldn't there come times of emergency when the packers might not be able to get cars, as happens in almost every other line of business?

Mr. MARSH. I doubt it. I doubt whether there would be any greater emergency on the part of the big packers, though it is a possibility I concede. But we know that 91 per cent of the refrigerator cars being owned to-day by the big packers has been a deterrent to the independent packing plant.

Mr. JONES. Do any of the independent packing plants own private refrigerator cars?

Mr. MARSH. A few of them have a few. I do not remember the figures.

Mr. JONES. Your suggestion is that they should be all made common carriers and for common use?

Mr. MARSH. Yes. It has not been stressed in the newspapers, because the packers are not the only ones who know about the effectiveness of propaganda. One of the troubles has been, since the railroads went back to their owners, that it has been impossible for some people at some times to get cars when needed, and this has occurred more and more. The Farmers' National Council has asked the Interstate Commerce Commission to thoroughly investigate the matter of discrimination in service, and rebates granted, under private ownership of railroads. And I will say this very frankly, Mr. Chairman and gentlemen of the committee, that none of the progressive farmers in America, so far as I know, think there is going to be any permanent solution of the present disaster until the railroads are returned to Government control and Wall Street is thrown out of control. Of course that meets the situation which you have raised as to acquisition of stockyards and refrigerator cars and other special equipment cars for the railroads. But we do not need to wait six months or a year until the railroads go back to Government control or ownership.

Mr. WILLIAMS. Would that be a solution of the meat packing industry trouble?

Mr. MARSH. Would what?

Mr. WILLIAMS. Government ownership or operation.

Mr. MARSH. No; there is a clear line of distinction which I will be glad to make between the two. Any enterprise which in order to be efficiently and economically and honestly administered must be a monopoly, like transportation, should be owned and operated by the Government. On the other hand, the Government should not break into private industry where competition is essential, in our judgment. I am speaking now of the Federal Government and not of State governments.

Mr. WILLIAMS. Do not the railroads do a competitive business?

Mr. MARSH. They compete in looting the Treasury; that is about the only competition in which they are engaged under the Cummins-Esch law.

Mr. JONES. Don't you think we had better service prior to either Government operation or since the Cummins-Esch law?

Mr. MARSH. I will tell you frankly that I think the figures show absolutely that under Federal control the situation was better.

Mr. ASWELL. You made the statement that that was the period of most economical handling that has ever occurred in our history. If that be true how did it happen that the Government had to pay such a large bonus, and why did freight and passenger rates increase so greatly, if there was so much economy in management?

Mr. MARSH. During the war?

Mr. ASWELL. Yes. Why did the Government have to pay out so much money to keep the railroads on their feet instead of increasing freight and passenger rates?

Mr. MARSH. In the first place, the Government did not have to pay out so much money.

Mr. ASWELL. Well, that is a question of opinion about which men differ.

Mr. MARSH. Well, it is a fact that rates did not increase very much during the war.

Mr. ASWELL. Oh, a great deal.

Mr. MARSH. Nothing like they have increased since.

Mr. CLAGUE. They were a great deal higher than they were before, and we had about one-half as good service as we had before.

Mr. MARSH. I can give you a number of figures on that subject, but it would take 15 minutes, if you want me to do so.

Mr. ASWELL. You raised an interesting question. Let us have an answer.

The CHAIRMAN. The rates were materially increased and the deficit was paid out of the Federal Treasury.

Mr. MARSH. Mr. Chairman, will you tell me of a single industry of any size in America which did not increase its prices from two to five times as much as the freight rates were increased under Government operation of railroads? I do not know of one that did not increase from one to six times. When I said they were not increased very much I meant that they were not increased relatively to the increase in other lines. Mind you, when the farmer's prices went down 50 per cent the freight rates went up 33⅓ per cent.

Mr. ASWELL. If you take into consideration the increase in freight rates during the war, and add to that amount what the Government did pay to the railroads in addition to those increases, your statement falls.

Mr. MARSH. Well, I would be very glad to answer that in detail. I will simply say, however, at the present time that I think you are mistaken.

The CHAIRMAN. Do you want your question answered, Mr. Aswell?

Mr. ASWELL. Never mind if he does not care to.

Mr. MARSH. All right.

The CHAIRMAN. There were increases all along the line. There were increases in railroad rates, and the deficit was met out of the Treasury, and we had the poorest and worst service we ever had.

Mr. CLAGUE. Yes; that was true of our country.

Mr. CLARKE. And there was deterioration in rolling stock and deterioration in roadbed and deterioration in morale, and the whole business was bad.

The CHAIRMAN. While that may not have been entirely due to Government control, yet that was the fact.

Mr. MARSH. It was due to the fact that the Wall Street crowd was in control and doing its best to make Government operation a failure, so as to defeat Government ownership of railroads.

Mr. WILLIAMS. The railroads in Russia to-day are being operated by the government, aren't they, and how are they getting along?

Mr. MARSH. They are probably getting along without as much graft as is the case in this country, probably not 1 per cent of it.

Mr. MCLAUGHLIN of Nebraska. Let us get back to the packing business. We are here holding a hearing in reference to these packer bills, and I think we are getting a long ways off from the subject.

The CHAIRMAN. Yes; let us get on with this.

Mr. MARSH. I want this to go into the record. The deficit under Federal control was less than $40,000,000 a month, if my memory is correct, about $40,000,000 a month, and has been about $102,000,000 or $103,000,000 a month under the Cummins-Esch law. We are raising the question as to what the relative deficit was. But my

point is this, further, which is of great importance, not only are freight rates of importance to the independent packer, and to the farmer, and everybody else, but equality of service is of equal importance. You will agree to that, won't you, Mr. Chairman?

The CHAIRMAN. But, Mr. Marsh, if this bill is to be of any value at all it is simply to encourage the independent packer, and it is to do away with the waste you refer to of 5 per cent to 10 per cent in shrinkage.

Mr. MARSH. Yes; in the long hauls.

The CHAIRMAN. The question is, What do the independent packers want? I have conferred with a number of independent packers. There are two of them within 30 miles of my home. They say they are not interested in these privately owned cars, that they do not concern them. Mr. Hormel is here. His plant is within 30 miles of my home. I take it he will handle that proposition when he appears before the committee.

Mr. MARSH. There may be a difference of opinion.

The CHAIRMAN. I want to get at just why the railroads should acquire all the refrigerator cars. You have gone into that. Let us proceed with the hearing.

Mr. MARSH. Those are our chief suggestions, plus this one, and then I want to conclude. I want to present a brief statement as to this principle which we think ought to be taken into consideration in connection with this great food industry. There ought not to be a subsidy or any subvention out of the Public Treasury, but this legislation should provide that whoever is in charge of the supervision of the meat-packing industry should—

(1) Furnish to registrants reports embodying existing knowledge concerning satisfactory and economical appliances and methods of food preservation by cold storage, freezing, cooking, dehydration, or otherwise, and of all improvements in the art, and to detail persons experienced in such art to consult and advise with registrants.

(2) Cooperate with registrants in procuring for them adequate services by common carriers, by rail or otherwise, including provision for special cars needed in the proper transportation of live stock, live-stock products, or perishable foodstuffs.

(3) Furnish to registrants all available information as to supplies of foodstuffs handled by such registrants and the location and movement and transportation costs of such foodstuffs.

(4) As far as practicable, when requested by any such registrant, provide for the inspection by agents of the commission of the live stock, live-stock products, or perishable foodstuffs received or distributed by such registrant, to determine the quality, quantity, or condition thereof, and for the issuance by such agents of certificates showing the result of such inspection; and in the conduct of such inspections to cooperate with duly authorized local authorities. Such certificates shall be accepted in the courts of the United States and of the States as prima facie evidence of the quality, quantity, or condition at the time and place of inspection of the live stock, live-stock products, or perishable foodstuffs covered thereby.

A question was raised this morning by Congressman Ten Eyck, and I believe he is not here, as to the marketing end of this matter. We think that this foodstuff or live stock commission should

concern itself in trying to encourage cooperative marketing, independent slaughterhouses—municipal, cooperative, or other governmental agencies. And they have got to have help, because the big packers, despite their assertions to the contrary, and some of you gentlemen who were here last year will remember, I think, quite a discussion over that subject; I say they naturally do not encourage independent slaughterhouses and packing plants because it is not good business to do so. We believe the Government should assist them.

These are our chief recommendations. I will conclude unless there are some questions that you wish to ask. And I am going to ask that the representatives of the four railroad brotherhoods may be allowed to appear and make a brief statement in behalf of this legislation. I would like to have Mr. W. M. Clark, vice president of the Order of Railroad Conductors, make a statement.

The CHAIRMAN. The committee will be glad to hear Mr. Clark.

STATEMENT OF MR. WILLIAM M. CLARK, VICE PRESIDENT AND NATIONAL LEGISLATIVE REPRESENTATIVE ORDER OF RAILROAD CONDUCTORS, WASHINGTON, D. C.

Mr. CLARK. Mr. Chairman and gentlemen of the committee, in appearing before you to-day I do so in behalf of the men in engine, train, and yard service represented by the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors, and Brotherhood of Railroad Trainmen, comprising approximately 600,000 men. The railroad employees are materially and vitally interested in a proper solution of the question of control or supervision of the packing industry of the country in order that we, the consumers, may have meat products at the lowest possible reasonable cost, and at the same time we are interested in seeing that the producers, who are the farmers, are treated fairly and receive reasonable prices for their commodities and for the labor in producing such commodities. We realize—as do all who are trying to contribute our part to the solution of the present problems—the dangers of combinations which may eventually control and manipulate the necessities of life to the detriment of the producers and consumers of our country, and we believe that there is a possibility that unrestrained and unrestricted manipulation on the part of a few men may result in great injury to the American public. There, at least, may be an opportunity, by and through the means of consolidated interests, afforded for unrestricted control of the meat-packing industry of this country to such an extent that it would work an injustice and hardship to the people.

After sober and thoughtful consideration of this vital question, these four organizations have decided to favor proper and reasonable control or regulation of the packing industry; but being unfamiliar with many of the details incident to the shaping of proper legislation, we have decided to cooperate with the progressive farmers, who are thoroughly familiar with this question, and to render such assistance to them as is possible in their efforts toward control or regulation of the packing industry. We accordingly desire to place the organizations on record as favoring reasonable packer control or regulation,

and to indorse the position taken by the progressive farmer organizations in this connection, leaving the details to be worked out by the members of this committee and the gentlemen representing the farmers' organizations.

This statement is concurred in by Mr. H. E. Wills, assistant grand chief engineer and national legislative representative of the Brotherhood of Locomotive Engineers; Mr. P. J. McNamara, vice president and national legislative representative of the Brotherhood of Locomotive Firemen and Enginemen; and Mr. W. N. Doak, vice president and national legislative representative of the Brotherhood of Railroad Trainmen.

Mr. Chairman and gentlemen of the committee, I thank you for this opportunity to give expression to our views on the subject.

The CHAIRMAN. The committee is very glad to have heard you. If there are no questions the committee will now hear Mr. Campbell.

STATEMENT OF MR. VERNON CAMPBELL, OF SAN JOSE, CALIF.

Mr. CAMPBELL. Mr. Chairman and gentlemen of the committee, I represent a group of farmers in California owning their own canneries, an organization known as the California Cooperative Canners.

We are interested in this bill, of course, not from the standpoint of stock growers, but from the fact that we have been selling quite a considerable portion of our pack of all kinds of fruit grown in California through the packers.

Mr. CLARKE. Did you say "to" the packers or "through" the packers?

Mr. CAMPBELL. Through the packers. We are interested particularly in the Haugen bill, which I take it interests this committee more than the other bills. As far as the other bills are concerned I do not know about that. We are not partiuclarly interested in the stock growing business, as I have said, and I will not attempt to discuss that matter. But I would say if I were allowed to settle the meat growing business I think I could settle it for all time to come by my conduct at home. Neither myself nor any member of my family eats any meat, and if others followed our example there would be no packer problem at all before you.

Mr. ASWELL. You seem to be quite a healthy specimen, too?

Mr. CAMPBELL. We have had about as healthy a family as you ever saw, and they have never eaten any meat and I have not done so in 30 years.

Mr. GERNERD. Are you a disciple of Dr. Kellogg?

Mr. CAMPBELL. No, sir. I was born in Iowa.

Mr. TINCHER. The chairman eats meat.

Mr. CAMPBELL. Well, he does not look at all fierce.

The CHAIRMAN. You may proceed with your statement.

Mr. CAMPBELL. Section 403 of the Haugen bill begins:

Nothing contained in this act, except as otherwise provided herein, shall be construed * * *.

And then if you will turn to subdivision (b), it states:

(b) To alter, modify, or repeal such acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this act becomes effective, or

(*d*) To relieve any person from obedience to any consent or other decree heretofore entered against him by a court of competent jurisdiction.

Now, gentlemen of the committee, as fruit farmers in California we object, as we think you will when you consider the merits of that section, to allowing that to remain and go before the Congress in that way. The consent decree in our opinion is one of the most vicious things that ever came up before the American people. We object to legislation by decree. We believe that the Congress should legislate in all these matters.

To show you how evil a thing like that can be, I want to refer you to the packer's decree, fourth section, which reads as follows:

That the corporation defendants and each of them be, and they are hereby, perpetually enjoined and restrained from, in the United States, either directly or indirectly, by themselves or through their officers, directors, agents, or servants, engaging in or carrying on, either by concert of action or otherwise, either for domestic trade or for export trade, the manufacturing, jobbing, selling, transporting (except as common carriers), distributing or otherwise dealing in any of the following products or commodities.

These commodities are what have been spoken of as unrelated lines. We have been packing unrelated lines. We are fruit growers packing our goods in cans. We found the meat packers were the only concerns in the United States who had export facilities powerful and far-reaching enough to export our goods to many countries. If you had gone into our warehouses when we were selling our goods for export you would have found boxes and cases marked to all points of the world. To-day these facilities are destroyed, for what reason I do not know.

I can not conceive why any such decree should have ever been entered into. Our people in California can see no reason why there should be destroyed any of the facilities built up in this country for the distribution of food products. We think this committee should go on record as being opposed to any such decree.

Mr. CLARKE. That means that now your foreign market is destroyed?

Mr. CAMPBELL. So far as the packers are concerned, yes, and they were the only concerns in this country big enough to do any considerable foreign business in the export of our goods.

Mr. ASWELL. Who is responsible for that decree?

Mr. CAMPBELL. I do not know a thing about it.

The CHAIRMAN. You are asking why it was entered. I think it was entered into to settle a fight between the wholesale grocers, or the brokers, and the packers. The charge was made that the packers were putting the jobbers or wholesale grocers out of business. That is Mr. Palmer's proposition, and we are not dealing with it in any way whatever. You would not ask the Congress to set it aside, would you?

Mr. CAMPBELL. Yes, sir; I would. I think it should be attended to by the Congress instead of by an administrative department of the Government.

Mr. ASWELL Do you know how the packers stand on that proposition?

Mr. JONES. Why, they agreed to it.

Mr. ASWELL. Probably under certain conditions. Do they now want it to continue?

Mr. CAMPBELL. I do not know.

Mr. VOIGT. They went nto court and consented to the entry of that decree.

Mr. ASWELL. But they were forced to do that, were they not?

Mr. VOIGT. I do not think so. I think the packers went to the Attorney General.

Mr. VEEDER. If you will turn to Attorney General Palmer's statement before the Senate committee, and also before this committee, you will see that he tells you why the packers entered into the decree, and it was because he demanded it and the packers met the demand.

Mr. VOIGT. In connection with that it should appear that the packers went to the Attorney General.

Mr. ASWELL. The Attorney General specified this decree.

Mr. VOIGT. They went to the Attorney General for the purpose of settling their trouble. The Attorney General testified before this committee last year that he was satisfied the packers had violated the antitrust law and that they were subject to prosecution. When the Attorney General made that announcement the packers went to him and they stipulated this decree. It is my judgment that the packers went to the Attorney General for the purpose of heading off any prosecution under the antitrust law, and this is what they got.

Mr. VEEDER. May I say one word more?

The CHAIRMAN. Yes.

Mr. VEEDER. The Attorney General himself in the same statement stated that the packers came to him and asked for a hearing, which they had been denied at other places, and that he demanded that they enter this decree, and they did, and I wish to remind you that the decree contains an express statement that it does not adjudicate that the packers have violated any law of the United States.

Mr. TINCHER. Well, at any rate this young gentleman's suggestion to this committee seems to me like it is apropos at this time, and that is, whether we are going to live under laws made by concerted agreed decrees between packers and Attorney Generals, or whether the legislative bodies of this Government are going to function and pass laws.

Mr. CAMPBELL. I represent a group of farmers in California. Mr. Free, who is the representative from my district, in Congress, will speak to you after I conclude my statement. But that, gentlemen, is the way our people out in California feel about it. They don't like this thing of living under decrees. We feel that we send our Congressmen here to express our desires and our will, and when this decree was promulgated—I will say this, that I don't know who who it helped; it certainly didn't help our group of farmers in California, because the packers were in a position to compete and get our stuff to the consumer at a less price. They were in a position to compete with the 6,000 jobbers who, in many cases, were representing us in this country. As I say, they were in a position to compete and get our stuff to the consumer at a less price.

For instance, 52 per cent of the people of the United States live in towns of 2,500 and over. Forty-eight per cent of the inhabitants of the United States live in towns of less than 2,500 and in rural

communities. We can not reach those smaller towns. Now we have 6,000 jobbers located in a few of the larger places, places of over 200,000 inhabitants. Now, in order to take our food to the people, to two-thirds of the people of the United States, we have to ship to centers and reship out again. Our products coming from the far West, coming from California, such products as lemons and oranges and lettuce and onions, and all those sorts of things, and coming from down in Texas, are delivered in certain central points, and then they must be reshipped, and by the time they reach the consumer they cost a great deal too much money. Our losses are largely in distribution, not in original price, as we know as farmers.

Now, the meat packers have built up a system from which they reach 17,000 out of 28,000 places in the United States, and no other system has been built up comparable to it.

Mr. JONES. I have heard it charged, Mr. Cambpell—I don't know whether it is true—but I have heard it charged that the use of refrigerator cars was made in order to ship these unrelated products, the refrigerator cars having a sort of preference shipment, and therefore they made faster delivery of these products by shipping them in the refrigerator cars, which had preference given them.

Mr. CAMPBELL. Yes.

Mr. JONES. The preference given them by shipping them in refrigerator cars, it had been charged, gave them the chance to deliver unrelated products faster.

Mr. CAMPBELL. Yes.

Mr. JONES. Now, if the companies furnished refrigerator cars to everyone, couldn't the others deliver their products just as soon as the packers?

Mr. CAMPBELL. Yes. I am not interested in who delivers them; I am not interested in whether it is the packers or somebody else, but I want them delivered. I am drawing the stuff out of the ground, and I want it delivered.

Mr. JONES. I understand.

Mr. CAMPBELL. Now, this consent decree absolutely destroyed that facility. Now, I saw Tom Wilson a few years ago and talked with him about this. We had trouble delivering our stuff, and I came to Chicago, and I said, "Mr. Wilson, the packers have got a distributing system that we ought to use to get our stuff to the consumer." "What do you suggest"? he said. I said, "I suggest that you haul at cost, to the consumer, and I will give you a small bonus." He said, "It costs 6 per cent." I said, "6 and 2 are 8." He said, "Yes, we will undertake it." Now, it costs us 100 per cent to deliver to the consumer, and if we can take those cars and deliver it at 8 per cent, let us do it. I don't care about the jobber or anybody else. We have a lot of stuff, and we want it delivered.

Mr. JONES. But couldn't they get it there if the companies furnished the refrigerator cars to the other distributing systems as well?

Mr. CAMPBELL. That is all right, but they are not distributing. The packers have got it. The canners of the United States, the National Canners' Association, went on record for no legislation for the packers, because they feared this very thing would happen. Now as to this decree, we had nothing to say about it. Now it comes close to our hearts, because we grow something in California that you

want, but we can not sell it; we can not deliver it, and so we are plowing the stuff under; we are plowing the things we raise out there into the fields, and you are paying ten prices here for those same things, and one of the reasons is because these consent decrees put these people out of it—put them out of the distribution.

Mr. JONES. But if you used that system, and had only limited ownership of refrigerator cars and ultimately put the other system of distribution out of business, you would have to increase your refrigerator cars very greatly in order to distribute all the products that would like to go. Of course, you have got your canners' products; you would like to have them go rapidly?

Mr. CAMPBELL. Yes.

Mr. JONES. There are all kinds of other foods and eatables that the various people would like to have distributed, and you can not give a preference to all of them, can you?

Mr. CAMPBELL. They can increase the facilities. If there is a dollar in the business you know the facilities will be increased. And the packers—I don't know anything about their problem—but it seems to me that if we had double their distribution, if we can give them canned goods, if we can give them beans and beets and flour, etc., one salesman could go into a store and sell all those things at half the cost.

Mr. JONES. Then it would be better under that theory for one concern to handle everything?

Mr. CAMPBELL. Yes, sure.

The CHAIRMAN. Were the packers selling for less than others?

Mr. CAMPBELL. Yes. That is the reason why the other fellows kicked.

The CHAIRMAN. I understood it cost less to distribute?

Mr. CAMPBELL. Yes.

The CHAIRMAN. Does that enable the retail dealer to buy at a less price?

Mr. CAMPBELL. Yes, sir; surely.

Mr. TINCHER. Well, if there was a tendency toward the packers having a monopoly on these unrelated lines, a decree just taking them clear out of the market, instead of a law affording the competitor cars and transportation facilities, was rather attacking the thing at the wrong end, wasn't it?

Mr. CAMPBELL. Why, certainly; it showed no brains at all.

Mr. TINCHER. Well, that is what I told Palmer when he did it, but he didn't agree.

Mr. CAMPBELL. He was advertising.

Mr. TINCHER. Doesn't that decree also prevent the packer from engaging in the retail business? I know he talked about that. Is that in the decree?

Mr. VEEDER. There is such a provision in the decree.

Mr. TINCHER. That is another way to cheapen the product.

Mr. JONES. Would it be better to have sufficient refrigerator cars and have them for common use, and let any one engage in the business of distribution that wanted to, packers or anybody else? Giving them all carte blanche to compete on equal terms?

Mr. CAMPBELL. You made a few remarks this morning that made me think that you had given this lots of attention. I have thought of nothing else for 25 years in California. If we had a corporation in the

United States big enough, owned by millions of stockholders, consumers and producers alike, that had thousands of refrigerator cars, that had a central point to gather information, that had the country districted so that we could deliver into all of these 28,000 places all the products in the United States as we needed them, with a comprehensive system like the five packers have, then we would have the distribution on a scientific basis and none of us would be starving, but we would all get our food alike. If we ever get brains enough to start doing that, that thing can be done.

Mr. ASWELL. You say in substance that the decree took the business away from the packers?

Mr. CAMPBELL. Yes.

Mr. ASWELL. And injured the producer and consumer both?

Mr. CAMPBELL. Yes.

Mr. ASWELL. You want the packers to handle your goods?

Mr. CAMPBELL. Sure I do. Why not? Who are they injuring? They don't injure me or you. If we have to have a monopoly to get food cheap, let us have the monopoly, let us get cheap food and more money for the farmer. I don't care how you get it, but let us get our food more cheaply, and let us get more money for the farmer. If we have to have a monopoly, let us have a monopoly. Now, if you want to control the packer, well and good. I don't care anything about that. What I want is the facilities.

Out there in California the snows and rains fall on the mountains, and the water runs down into the valleys and washes everything away unless we dig ditches and distribute the water. Now your products come on the farm in the same way, and you have an awful bunch of stuff, and you have to have a means of distributing that. Just now we can not distribute these products. We have to pick the fruits and plow up the products of the soil and a great deal of that is being dumped into the bay. But we want to have some sort of system that will enable us to carry these goods to all parts of the country.

We have an enormous nation, and we can not do business on a small basis. We have got to get a knowledge of the conditions all over the country at some central point, so that we know what the situation is everywhere. As Secretary Hoover said at Atlantic City the other day, we have got to get some way of getting knowledge of our supplies and distribution at some central point.

I suggest this amendment to this bill: In paragraph (d), section 403, line 21, page 27, add:

Provided, however, That nothing contained in this act shall be construed to prohibit or prevent the packers from manufacturing, purchasing, storing, selling, or handling on commission foods or food products other than live-stock products.

Or if you have got some people so radical that they won't accept that, then say this:

Provided, however, That nothing contained in this act shall be construed to prohibit or prevent the packers from handling on commission foods or food products other than live stock.

The CHAIRMAN. Let me read to you from the Federal Trade Commission what they say. It is just one or two lines:

Not only have monopolistic control over the American meat industry, but have secured control, similar in purpose, if not yet in extent, over the principal substitutes

for meats, such as eggs, cheese, vegetable-oil products, and are rapidly extending their power to cover fish and nearly every kind of foodstuffs.

And then it goes on. And for that reason, of course, they were divorced from handling or acquiring a monopoly over these various things. The contention is that the monopoly of the meat industry is bad, and that if that is bad, then it is just as bad in butter, eggs, and food of every kind.

Mr. CAMPBELL. There is an answer, as I told the Senate Agriculture Committee about two years ago, I think. There is an answer to all this talk about monopoly. We answer it in California by doing the business ourselves. If we don't like the fellows who are packing the canned foods, we can them ourselves. If we con't like the fellows who are putting up the dried fruits, we do it ourselves; that is, the farmers do it themselves.

Mr. TINCHER. Suppose that report is absolutely accurate, and they have an absolute monopoly in the meat industry and in these unrelated lines, could you conceive a more idiotic way of curing it than of absolutely barring them from dealing in it?

Mr. CAMPBELL. Let us illustrate it in this way: The railroads now transport all sorts of things, but we will say it is conceived by the Department of Justice that the railroads have a monopoly of hauling things; so we will say to them, "You can haul the farmer's live stock and his poultry and his eggs, but you can not haul his wheat and his fruit and his corn. You have got to let that go by truck or by oxcart or something." Now, it is the same thing with the meat packers' distributing system. They have got a system that is exceedingly valuable to the country, and we ought to be able to use it. We haven't got anything to compare with it. And why destroy those facilities before some other facilities are built up?

And I want to submit for your careful consideration an amendment along the lines I suggested, because we don't want Congress to approve of the continued use of this decree system in government.

Mr. JONES. Well, now, Mr. Campbell, granting that we adopt your amendment, don't you think then that if we give them the privilege of engaging in all kinds of transactions that all those facilities should be available to anyone who wants to use them?

Mr. CAMPBELL. Surely.

Mr. JONES. In other words, that they should not be limited; that the transportation facilities, or any part of them, should not be limited to the use of the packers?

Mr. CAMPBELL. Well, I don't know how radical you people are. I am not radical.

Mr. JONES. I am asking this question for information. I am seeking information.

Mr. CAMPBELL. We have gotten ourselves in bad shape in the United States here on this decree business. We have started a precedent here, and we don't know where the ramifications are going to reach to. It is a dangerous precedent. I am going to suggest this, if you want to go a little further: I would say, in addition to what I have suggested as an amendment, if you want to limit them, that you limit them to the commission basis, where the farmer owns the stuff that is sold; they don't own it at all; they act as a common carrier on a commission basis, delivering it to the point of delivery on a commission basis, and then say, "It being agreed that all products

handled on commission shall be sold at prices named by the producers and manufacturers, and that the same price, terms, and conditions of sale shall be made to all who offer to purchase such provisions." Then you will let any consumer go in and buy the stuff at cost.

Mr. TINCHER. That will restore their right to retail, which is abrogated by that decree.

Mr. CAMPBELL. Well, it would restore the right to me to sell to you as the consumer at cost, so that the same can be done as Henry Ford is doing now; he is selling flour at half the price that it costs at retail, and he is making the flour from wheat grown on his own farm. What we want to do is to get to the consumer at cost. We are selling our stuff now for nothing, and the consumer is paying 10 prices. Now we want some machine to break through, and we think the packer machine is strong enough to break through.

Mr. ASWELL. Who is responsible for that condition?

Mr. CAMPBELL. The waste.

Mr. ASWELL. In what?

Mr. CAMPBELL. The waste in distribution.

Mr. ASWELL. The waste in distribution?

Mr. CAMPBELL. That is all there is to it—waste.

Mr. CLARKE. Do you mean the number of different hands it passes through, that adding onto the cost?

Mr. CAMPBELL. Not only the number of different hands it passes through, but the waste in distribution. Now, I think I can explain that so you will easily see it. If we pack in California a carload of vegetables or other perishables, and they are forwarded on here, we will say to Chicago, and there they are unloaded into a warehouse, and we pay the cost of unloading and warehousing and care and attention, and then they are redistributed out to a little jobber in some outlying point at an extra cost of hauling and a waste in handling and loss because of breakage, and so on, and then they get to this point, and they are distributed out there again to a little retail dealer, the continued hauling and handling and clerk hire and all those sorts of things constitute a great waste—not only a waste in the labor involved and the money involved in each transaction, interest paid on this money, etc., but in the actual loss of the articles themselves by extra handling and destruction of the product, so that the waste in our system of distribution is enormous.

A packer will take it in these tramp cars and bring the product directly to the small retail dealer who wants it. There you have an economic system of distribution.

Mr. CLARKE. Do you think there is anything in the criticism that by laying down a strict mandatory law you are limiting business so that under changing conditions it can not evolve, whereas the changing conditions can be met through decrees? Do you think there is anything in that criticism?

Mr. CAMPBELL. The danger of decrees is this, that the men who promulgate those decrees, who work those decrees out, are not business men, usually. They are men who do not understand distribution. They have not made a life study of it, and they give us something like we have got here, which is wrecking business. Now, what we need to-day is something constructive, not destructive, and the tendency of the Federal Trade Commission is destructive, because it

has given us no constructive program. They have attacked these growers' organizations in California because, they say, we are organizing in restraint of trade, whereas we are only asking to get our stuff to the consumers. But they say that we are organizing in restraint of trade, and instead of giving us any constructive program their tendency is destructive.

Mr. VOIGT. The men that are back of this decree—that is, the bar you are complaining about—are the wholesale grocers of the United States?

Mr. CAMPBELL. Of course their interest is not the interest of the consumer or the producer.

Mr. VOIGT. Well, they indulged in quite extensive propaganda among the Members of Congress a year or so ago, so when you say that those men don't know anything about business, the fact is they understood their business too well.

Mr. CAMPBELL. Well, they understood their side of it, which was to get all they could out of the producer and consumer.

Mr. TINCHER. You ask what good this decree did anyway.

Mr. CAMPBELL. Yes.

Mr. TINCHER. Mr. Palmer, the Attorney General of the United States, appeared before this committee when we were contemplating what we thought was constructive legislation concerning the packers, and asked us to desist, and to not pass any law, stating that this decree would absolutely be satisfactory within a year, to every person in the United States, and that there would not be any occasion for any packer regulation.

Mr. CAMPBELL. Well, I will tell you; we have faith in the men we elect to Congress. We elect them because we think they know something about our needs. And you men, representing the agricultural interests of the country, and, in a way, the consumers, we feel that you are more competent to work out this problem in the right way than men who are not skilled in industry, especially the agricultural interests of this country, and we don't like to have administrative departments destroying our industry which we built up after many years, simply by these consent decrees. The farmers are not going to stand for it. We are going to rebel against those things. We are going to fight. If necessary our farmers will write thousands of letters in on the decree itself. We believe that this committee can fix that.

Mr. VOIGT. Let me ask you a question. You would like to see the packers put into a position where they could handle your product?

Mr. CAMPBELL. Certainly.

Mr. VOIGT. They can handle your product economically because they own these refrigerator cars?

Mr. CAMPBELL. Certainly; yes, sir.

Mr. VOIGT. These refrigerator cars are a part of the transportation system of the United States?

Mr. CAMPBELL. Yes, sir.

Mr. VOIGT. Now, do you think that it is in the interest of the public—now not considering your particular situation—is it in the interest of the public to have a private corporation monopolize a part of the transportation system of this country? What do you say about that?

Mr. CAMPBELL. That depends upon how they handle it.

Mr. VOIGT. Well, let us assume that they handle it well.

Mr. CAMPBELL. That is all right. I don't see any objection to that.

Mr. VOIGT. Would you favor a scheme under which every man in this country that uses the railroads to a considerable extent, should use his own private cars?

Mr. CAMPBELL. No; because that would mean a confusion of handling of those cars, and probably considerable waste in transportation.

Mr. VOIGT. Then your contention is that here is one case where a private corporation should have a monopoly of a certain part of the transportation system?

Mr. CAMPBELL. I don't know as it makes much difference whether the railroads own those cars or the meat packers, so long as somebody who had proper facilities for directing those cars would handle them in a proper manner.

Mr. VOIGT. Well, a railroad is a public utility. It is supposed to render service on equal terms to all. Now this is a question of principle with me, as to whether a private party should be allowed to control a part of that transportation system.

Mr. CAMPBELL. Well, I am not an expert on that. Of course I have devoted my whole life to the production of foods and the distribution of them. Now whether or not the railroads should own those cars or the meat packers should own the cars I am not competent to judge. I would not want to pass an opinion on that.

Mr. CREIGH. Mr. Chairman, may I say a word?

The CHAIRMAN. Yes.

Mr. CREIGH. My name is Thomas Creigh, representing the Cudahy Packing Co. I will say for your benefit that two-thirds of these route cars and so on are railroad owned cars and not our own private cars. I think when the packers' side comes up it will be more proper to take this up, but the private car, and all, has no relation to the private-car system.

The CHAIRMAN. Either owned or leased?

Mr. CREIGH. No; we get them. We procure for our route cars at least two-thirds of them, from the carriers, the very cars that we use on those routes. They are not Cudahy-owned cars.

The CHAIRMAN. They are leased, aren't they?

Mr. CREIGH. Only as you or anybody else would order a car for a particular trip, from the carriers.

The CHAIRMAN. You control the cars absolutely?

Mr. CREIGH. Not at all. We don't control the cars absolutely, not at all.

The CHAIRMAN. Can other goods be shipped in the same car?

Mr. CREIGH. No.

The CHAIRMAN. Not in the same car?

Mr. CREIGH. No; because it is a carload shipment proposition. It is just as if you would order a car for cattle; if you had enough to take the whole car, why you would have it.

The CHAIRMAN. Do you pay the carload rate?

Mr. CREIGH. We pay the tariff rate, yes; on what is called the route car basis.

Mr. VOIGT. In connection with that it should be stated, however, that while the statement which is made by this gentleman holds true of the Cudahy Packing Co., the report of the Federal Trade Commission shows that the five big packers either own or control over 90 per cent of the refrigerator cars of this country.

Mr. CREIGH. Again, I would like to make a statement on that. I am sorry to take up this time here. Of course, what I am saying is as regards route cars, or the shipment of these grocery lines, and all that sort of thing. When it comes to beef shipment, the Cudahy Packing Co. does have its own beef cars, and I think that you will find that the ratio of beef shipments by the five larger packers is perhaps in some relation to the cars that they own. In other words, the bigger packers are in the beef business very extensively, and it is by far the most economical thing, as has been found in every investigation, that they should own the cars. They are the most efficient car in the world as far as getting a mileage out of them is concerned. It is a big story, and I apologize for taking your time.

Mr. JONES. Before the decree was entered that you refer to here did you have a custom of putting these unrelated products in the same car with the beef, and handling it in that way, and filling out the cars with other products?

Mr. CREIGH. For the most part beef is rather a carload shipment. Now, what we call the route car, which is where we get in trouble largely with the jobbers, is what contains all sorts of meat products as distinguished from beef; lard and compounds, canned fruits, and any other line going right along, paying exactly the same freight rates, largely on an L. C. L. basis, that any jobber would pay to the same point.

Mr. VEEDER. May I just explain in a moment the refrigerator-car situation?

The CHAIRMAN. Yes.

Mr. VEEDER. Now, the packers own these cars because the railroads do not and will not furnish them. The packers have put their money into them. They operate them at a loss. Whenever the railroads will furnish the cars, have the equipment and furnish the cars, the packers will cease operating private cars. The reason they are doing it to-day is that they can not get cars to transport their shipments around the country. If a law were passed requiring the railroads to furnish the cars, and the railroads furnished the cars and performed the service, the packer cars would disappear, because they are operated at practically cost, or sometimes at less than cost, and never but a little over cost. Now that is the reason they are operating the cars, and that is the reason they originally went into it, and that is the reason they have to stay in this business of operating their cars to distribute their products.

Now, another thing. There is no limitation upon anybody who has product to distribute in sufficient volume, to require the use of a string of cars, from getting his cars just as the large packers do, and from shipping his product in those cars. The smaller packers, as fast as they require cars, secure them.

The reason that 90 per cent, or whatever the figure is, of beef cars were owned by the beef packers is because they have occasion to use 90 per cent of the meat cars of the country. There is no manipula-

tion, and there is no limitation upon anybody building cars and using them just as fast as they need them. There is no limitation upon the railroads building them and furnishing them, except the financial cost of the investment. And as I said before, the answer to this whole question is that the packers will go out of the car business if they can get the cars and when they can get the cars from the railroad companies.

The CHAIRMAN. What is the cost of those cars?

Mr. VEEDER. Well, something around $2,000.

Mr. CREIGH. $3,000 now.

Mr. VEEDER. $3,000 nowadays.

The CHAIRMAN. How much are you paid a mile?

Mr. VEEDER. We are paid practically a cent a mile.

The CHAIRMAN. I just wanted to get it in the record.

Mr. MARSH. May I ask Mr. Veeder a question?

The CHAIRMAN. I am not sure. I rather think we had better get through with this witness. We had a sort of a rule here established that there should be no cross-examination outside of the committee. We will take that up with the committee. Shall there be cross-examination of the witness outside of the committee?

Mr. CLARKE. Let us finish with the witness.

Mr. CAMPBELL. That is all I have, Mr. Chairman, if you are through with me.

The CHAIRMAN. If you don't have anything more, that is all, Mr. Campbell. Thank you.

Mr. CAMPBELL. Nothing at all. But I would like to have Mr. Free follow me, if you please.

The CHAIRMAN. Are there any questions to be asked?

Mr. VOIGT. If Mr. Marsh wants to ask Mr. Veeder a question I think that should be permitted.

The CHAIRMAN. All right.

Mr. MARSH. Would Mr. Veeder indorse legislation then requiring the railroads to acquire all the refrigerator cars and to provide them?

The CHAIRMAN. Do you expect to take that question up?

Mr. VEEDER. I will say this, that the Interstate Commerce Commission had a lengthy investigation of the private car system three years ago, and their conclusion was that the present system of private distribution of meat, that is, the distribution where there was a constant travel back and forth between two definite points in the distribution of meat was cheaper, and also in the distribution of fruits, where the cars had to be back in quantities. One time they are out in California, another time in Georgia. Their conclusion was that it was cheaper than to require the railroads to own and operate their cars.

Now, I will say again that I am not going to say that I indorse legislation that will require the railroads to furnish the cars. It might be that they would not perform the service satisfactorily if they did. I don't know. But I will say this, which is repetition of what I said before, that whenever the railroads furnish the cars and the service you will see the private cars disappear, because the Interstate Commerce Commission itself in its decision has stated that they are operated at practically cost. Now, the packers will use their money in the packing business if they can get their meat distributed, and whenever the cars and service are furnished by anyone

else—private owner or railroad company—to them, they will distribute their meats through that service and not furnish the cars themselves.

Now, I would like to just say one word about this 90 per cent of the private cars. The big packers, as I said before, probably control 90 per cent—each have their own systems—of the beef cars of the country, for the reason that they have occasion to ship perhaps 90 per cent of the meat that is shipped in commerce. That does not mean that the big packers, the five of them taken in the aggregate, are doing 90 per cent of the meat business of the country. I don't want that misunderstood. That point has been elaborated pro and con here so much that I am not going into it. But they only do about 50 per cent, or less, of the meat business of the country. Now, that is due to the fact that all over this country there are small packers who only have a few or no refrigerator cars; there are thousands of them, butchers and packers, all over the country. There are thousands of them slaughtering locally, and slaughtering meats shipped to them on the hoof from the cattle centers and the stockyard centers.

Mr. VOIGT. Now, getting back to Mr. Marsh's question: Would you care to answer that question yes or no? You made a long explanation there now. I think you ought to be candid and answer that gentleman's question.

Mr. VEEDER. Well, I don't know as I remember the question. I would like to hear Mr. Marsh's question again.

(The question asked by Mr. Marsh was read by the reporter, as follows:)

Would Mr. Veeder indorse legislation, then, requiring the railroads to acquire all the refrigerator cars and to provide them?

Mr. VEEDER. I can't say yes or no to that for this reason, that this is a very large question. From the packer point of view I will say yes. But it would require an enormous investment for the railroads at this time, and they claim they are losing money. That may be wastage. It makes no difference what it is. It is a large economic question. It would require the railroads to furnish many times the number of refrigerator cars that it requires the private owner to furnish, for the reason that if every railroad has got to furnish all the cars needed on its railroad it is going to have them stand idle for a great portion of the year, while if the cars are owned by some central institution or private ownership, all of the cars may be parked—or as many as may be necessary may be parked—in California for the purpose of bringing the fruit east from California during the fruit season, or all of them may be sent down to Georgia.

If the railroads own them you will find that it will take 10 times as many private cars; that it will take 10 times the investment for the railroads to furnish this service that the private owner furnishes. It will cost the railroads 10 times as much in investment in cars as it does the private owner.

Now that might be answered by having some central owner who may switch these cars from the Atlantic to the Pacific as needed. But that has got to be provided. Now that is a great big economic question and can not be answered yes or no. And as I said before, I answer yes, if the question is simply whether the packers would

like to have the cars and service furnished by somebody else other than themselves.

Mr. TINCHER. Under the present law the Interstate Commerce Commission has the power, as I understand the law, to require the carrier to furnish these facilities.

Mr. VEEDER. They have the power to require the carriers to furnish all special equipment; under the law, as I understand, the commission has the power, in its discretion, to require the carriers to furnish all special equipment, which includes refrigerator cars.

Now, Mr. Creigh called my attention to one thing. I think you will find that there has been no complaint filed with regard to shippers not getting cars. I believe Mr. Creigh can explain better than I can.

Mr. CREIGH. I think under the Esch-Cummins Act the commission goes into operation when a shipper files a complaint with them that he has been unable to get any cars. I should say that while the act has been in effect you will find no complaints of that kind. Of course that is the machinery under which this can be put into operation.

Mr. TINCHER. What I was getting at was whether we needed any legislation on that subject or not. Now here is a little packer out in Hutchinson, Kans., who is in competition with the Big Five packers, who have their own refrigerator cars. Now, the law is that the Interstate Commerce Commission have the power to make the transportation company furnish him a refrigerator car.

Mr. CREIGH. I think that is the law, and as I say, the law has been in effect more than a year now, and I doubt whether there has been any complaint. Hence the theoretical objection, I say, does not exist now at the present time.

Mr. TINCHER. I don't know, if we pass a mandatory law that the transportation companies should furnish all the refrigerator cars, how we would raise the money.

Mr. CREIGH. Mr. Marsh was making an argument a while ago that the present railroad operation is in certain respect uneconomical. Now I have been in these car cases for so many years that I think I know something about the situation, and I say, in view of the finding of the Interstate Commerce Commission, which is indisputably correct, the present system is by far the most economical.

Now our situation—that is, speaking for the Cudahy people—would be the same as Mr. Veeder's. We want the service. We don't get any profit out of the car investment. But when it comes to the question of taking our cars away and giving them to the carriers, why immediately I know that the carriers are going to have at least four or five times as much cost; that the carriers will need four or five times the capital investment necessary to provide for it under ordinary car movement as is now needed. Now somebody is going to pay that. Somebody has got to pay for it, and somebody is going to suffer as the result.

Mr. VOIGT. Well, you packers claim that you are operating these cars at a loss, but you are not kicking very hard and asking to be relieved of that loss. You don't come before this committee or any other committee and say, "We are losing money and we want to get rid of these cars."

Mr. VEEDER. The fact has been established after three years, or pretty nearly three years of hearings or investigations on the part of the Interstate Commerce Commission. Now what we want, in spite of the fact that we are operating the cars at practically cost, is the service, and that we have got to have. We are distributing a highly perishable product. We have got to have the cars on hand for immediate shipment. We can not hold this perishable product awaiting delivery of cars by the railroads if they have to send to some distant point and get them. We can not wait until the railroad switches in cars from San Francisco, for example, where they have sent them to be parked, or some other place.

We have got to have the service or go out of business. We have got to have these cars immediately in order to handle this perishable product before it turns. We have got to ship it in the quickest possible time in order to allow the retailer to carry it for a time before it begins to spoil. We have got to move it quickly, handle it quickly, and the only way that we can handle it quickly is to have the car there ready when it is to be moved. Now unless the railroads are in a position to furnish enough cars so that they will always have equipment at the point where needed, why the service won't be satisfactory, and the meat distribution of this country will be wrecked. Now they can not do that unless they have several times the number of cars to perform the service that we have.

The CHAIRMAN. Have you anything further, Mr. Campbell?

Mr. CAMPBELL. No.

The CHAIRMAN. We will hear from you then, Mr. Free.

STATEMENT BY HON. ARTHUR FREE, A MEMBER OF CONGRESS FROM THE EIGHTH DISTRICT OF CALIFORNIA.

Mr. FREE. Mr. Chairman, I don't feel like taking up the time of the committee, for I know you have a great deal of work to do and a great number of people to hear, but I was anxious that Mr. Campbell should have the opportunity to present the thought that he presented here.

I am a Member of the Congress from the eighth district of California, where some of these farmers' canneries exist. In addition to the canneries represented by Mr. Campbell we have some 34 others.

Now, I have been satisfied since coming here, and particularly just recently after having attended the conference of the United States Chamber of Commerce at Atlantic City, that the people of the East and even of the Middle West have no conception of our problems in California. In order that you may see what our distributing problem is, I want to quote a few figures to you.

For instance, California produces 150,000 tons of dried prunes, 190,000 tons of raisins, 14,500 tons of dried apricots, and 35,000 tons of dried peaches.

Now, I could go on down the list and show you, in addition to that, 13,450,000 cases of canned fruits and a number of other products.

Now, up to the time of the destruction of the distributive system of the packers, by the 1st of January or the 1st of February, we had our packing houses cleaned up and the products were on the way to the consumers. And, by the way, I am a fruit grower out there

in California; I am a member of the organization that Mr. Campbell is the manager of. I have been associated with those associations and organizations there since I was a boy.

Now, when I left California 60 per cent of the crop was still in the packing houses, and in the southern end of my district the most beautiful lemons in the world were being thrown into ditches and could not be sold for any price. And then I arrived here in Washington. I paid 40 cents a dozen for lemons, or at the rate of $10 per box. I paid 10 cents apiece for apples here, or $15 to $20 a box, when out there those apples are absolutely being thrown away.

Now, gentlemen, it seems to me that it is time for courage on the part of this Congress. Since I have been here I have seen all sorts of destructive things. People want to do away with this tax and that tax and give you no other tax in its place. They want to take away one distributive system and give you nothing in its place. I perhaps ought not to say this, and I don't want it to be understood as perhaps it may sound, but, so far as we have been able to view the Federal Trade Commission from out there in California, it is absolutely destructive, and is giving us nothing constructive to take care of our problems. And you, the Agricultural Committee of this Congress, it seems to me, should take hold of this problem and see that we do get distribution.

Now, in order that you may understand this peddler-car system—perhaps you do—let me explain it to you. This peddler-car system has been of great value to us there. They send out their salesman. They go around to the little groceries, to the little corner stores, and they take an order for so many hams and for so many slabs of bacon, so much mush, so much canned fruit, and all that sort of thing, and then they start a car out along that route, and along comes our stuff, and it is sold and distributed to the consumer.

Now if you want to solve this problem, gentlemen, put in this bill a rider to the effect that that consent decree shall be set aside so far as the distribution of those products is concerned and have these distributors distribute on a commission basis. There is the answer to the whole thing. Let the farmer own the product until it reaches the consumer, and the packer will distribute on a commission basis, and you will get the fruit, or whatever it is, distributed at a reasonable cost.

Now I don't want to take any more of your time, because I realize that you have a great many people to hear. But I just wanted to give you those facts.

Mr. CLAGUE. Go ahead.

The CHAIRMAN. We are very much interested in what you are saying. This is a very interesting question.

Mr. CLAGUE. Take all the time you want.

Mr. FREE. Let me illustrate to you another thing in California. As I was coming through from California to Washington I stopped in Minnesota. And I asked a retail grocer there what he was paying for onions, and he told me 10 cents a pound—$10 a sack. And, gentlemen, I saw some of the most beautiful onions out there in California that the United States could possibly grow plowed up and thrown away because we could not sell them. And the same is true of peaches, almonds, nuts, various fruits, grain, whatever line you go into; we haven't got the proper distributive system.

Now here is another thing about it. Some tears have been shed about the wholesale grocers. They are the biggest bunch of hold-up men in the world when it comes to California products. They will absolutely prohibit a cooperative concern from selling to its own members, and threaten to boycott it. And if you gentlemen want the literature I can show you where they advocate the boycott of a cooperative concern in California because they tried to sell to their own members at somewhere near cost.

Now you talk about this decree. I can see how that came. Here were the packers with a pistol against their heads, and what were they going to do? Were they going to go to jail, or were they going to submit to this thing? And they submitted. And now they have got them out of their best side line.

Now the vicious thing about the decree is the fact that there isn't one of these organizations that can take 1 pound of California product and send it to England or France or Italy or any other place. Now if you want to protect the thing at home here, for God's sake why prohibit us from distributing our goods abroad? To illustrate to you what it has meant to us let me say that we exported something like 60 per cent of the dried prunes of California to Europe heretofore, and this year we have not been able to export a single pound. We have exported 40 per cent of the canned goods up to this time, and this year we can not export a single pound. And I know that, because I am a member of the organization that Mr. Campbell belongs to, and we have got to go over to Europe and get a European concern to come over and try to handle some of our products, because no concern in the United States that has the facilities is able to do it.

Mr. CLARKE. Isn't the rate of exchange one of the answers to that question at the present time?

Mr. FREE. We are willing to take the chance on the rate of exchange, sir.

Mr. CLARKE. In other words, you will accept their paper?

Mr. FREE. Yes. Another trouble that we are up against in our fruit industry out there, gentlemen, is this: Our banker says to us, "You have your product sold and we will loan you money to put up your stuff." Now, we are canning our fruit. Let us see what goes into the can. There is the can itself, there is the labor, there is the fruit, there is the sugar, and there is the label. The farmer is willing to take his chance on the fruit, but he has got to pay for those other three items. The banker out there, because of the taking away of their distributive system, says, "You have got to have your stuff sold before we can loan you any money to pack it." You come on east here and try to get a contract for your fruit. I was talking to one of the members of the independent canneries, as we call them out there, and he tells me that he can not get a single contract for this coming year for the sale of his stuff. In other words, here is the wholesale grocer and the jobber saying, "I won't buy." Here is your banker saying, "I won't loan you the money to pack until you have orders." With the result that this year, unless something heroic is done, the fruit in California is going to rot on the ground, while the people here in the east would like to eat the fruit, but they can not get it.

Now, I could continue talking along this line for a considerable time, but I don't want to take any more of your time.

Mr. TINCHER. We have been talking for years about packer legislation. This decree makes it absolutely necessary now that we do have some packer legislation, doesn't it?

Mr. FREE. Yes; to put them back in the business. I will tell you the objections that I have heard. I have talked about this thing to everybody whose ear I can get, because it affects A. M. Free financially; I own an orchard out there, and in addition to that I represent a good bunch of people out there. They will say, and the chairman of this committee may say the same, that you are going to create a big distributive system and make the consumer subject to that system. Suppose you do. Then you can regulate it, can't you, as we do the railroads? We can give them proper regulation, and, if necessary, put them under some department and see that they shall charge no greater commission for the distribution of these products than the Commissioner of Agriculture, or some other proper authority, would approve.

Now, we can put fruit into this market at less than half of what you are paying for it. We can put lemons here in this market at 15 cents a dozen, whereas you are now paying 40 cents a dozen. We can put in apples for you here to-day at $2 a box, where you are now paying $20 a box, and we would be mighty glad to do it.

Mr. CLARKE. Just a moment, Mr. Free. You have pooling associations out there, haven't you?

Mr. FREE. Yes.

Mr. CLARKE. Now, do these pooling associations take the entire product of different communities which are shipping it in here and put it in warehouses, and then regulate the price of it when it goes out?

Mr. FREE. No; there is one association in California that somewhat approaches that. That is the California Fruit Exchange. They handle the citrus fruits of California. They have an information bureau throughout the United States by which they know the markets, and they put the citrus fruits into the markets so there is never a surplus, and to a degree they fix the price.

Mr. CLARKE. In other words, they don't permit any surplus to get into the warehouses and get into the final distributors' hands?

Mr. FREE. No.

Mr. CLARKE. Now, just a moment. I want to go a step further on that. Now, isn't the effect of that pooling association there that the cost of the fruit is higher? Doesn't the practical effect of it mean that we, as consumers, have to pay a good deal more?

Mr. FREE. No.

Mr. CLARKE. No?

Mr. FREE. No; you pay less.

Mr. CLARKE. That is what I want to know.

Mr. FREE. Those concerns out there realize that their salvation lies in selling at a moderate price, and if they can sell at a moderate price and cut out the waste and the extravagance, and if they were permitted to put the price on the article itself, they would be delighted to do it. They realize that their salvation is selling at a moderate price.

Now, another thing about it. There is no organization in California unless it be the Raisin Association that has the control of any one product. For instance, the concern that Mr. Campbell represents here; he represents, I think, about seven canneries.

Mr. CLARKE. My thought is this: Now then, with all of these different products of your State that we are paying so enormously high for here, and with all this going to waste out in your native State there, why shouldn't that wastage be brought into this market? Or could it be brought into this market.? Is there any practical answer to that question?

Mr. FREE. Yes. The trouble with the thing is that there is no organization there that is strong enough to finance distribution. If all the organizations were together they could do it.

Mr. CLARKE. Yes.

Mr. GERNERD. In other words, if you could combine these unrelated products into an organization like the fruit growers' organization of California, that would obviate the necessity of your going to the packers to have these products distributed?

Mr. FREE. Yes.

Mr. GERNERD. But you are not big enough, you are not strong enough, to be able to do that?

Mr. FREE. No, sir.

Mr. VOIGT. Now, you say that you can not sell in Europe this year and that you could sell in Europe last year. You don't attribute that to the fact that the distribution system has been broken down?

Mr. FREE. Yes; I attribute that to the breakdown of the distribution system—part of it. The market in Europe is picking up. I know one concern in California, the entire output of which, or practically the entire output, Armour & Co. would take and market for them in England this coming year, but, by reason of this decree, they are not able to do it, because they can not indulge in either internal or external trade.

Mr. VOIGT. The southern cotton growers claim to be in a fix because they can not sell their cotton to Europe.

Mr. FREE. Well, understand me, I don't minimize the exchange situation at all.

Mr. VOIGT. Their cotton is not handled by the packers?

Mr. FREE. No. Now, I don't minimize the exchange situation at all, but I do say that there are markets in places, and if some of these local concerns we are putting out of business were permitted to operate, they could utilize them. Take a concern like Armour & Co. I was told at one time that they have something like 1,700 distributing points throughout the world. Now, they would send our products down into Argentina, into South America; they would send them even over to China, to Japan, Australia, and other parts of the world. Now we can not take advantage of that system even outside of the United States.

The CHAIRMAN. Aren't there others engaged in the business of distributing fruits?

Mr. FREE. You only have your jobbers and your wholesale grocers, and they have operated on this plan, that they buy and sell; and owing to the fact that there is a falling market they refuse to buy in a year like this.

The CHAIRMAN. I understand that your fruit is largely shipped to cities and sold by auction; is that it?

Mr. FREE. Oh, that is true of some green fruits, like ripe cherries and things like that. But that isn't true, however, of the canned fruits or the dried fruits.

The CHAIRMAN. That is only a small portion?

Mr. FREE. Yes, sir; just a little bit. The cherry output and some green fruits like that. That is all.

The CHAIRMAN. I take it that you have other troubles than the doing away with the peddler cars?

Mr. FREE. What is that?

The CHAIRMAN. I say, you have other troubles?

Mr. FREE. Yes. Of course, the increase in freight rates has made a big difference, but it does not account for it all. For instance, the difference between getting nothing for your lemons in California and paying $9 or $10 a box here is not represented by freight alone, because the freight and refrigeration would probably mean $1.50 a box on lemons. And take apples; the difference between nothing and $15 or $20 a box would not be represented by freight; there the cost would not be over $1.50 for refrigeration.

The CHAIRMAN. I have heard it stated quite frequently that the market price in Washington was less than the cost of transporting from Georgia.

Mr. FREE. Well, that might be on some products. Of course, we are a little bit fortunate in California in one way, in that we have water transportation from San Francisco and the coast there into the cities on the Atlantic coast. And right now the prune and apricot association, owing to the condition, are establishing packing houses in New York, sending their product around through the canal, and peddling it out. Where they used to sell it in 10-carload lots they are now peddling it out in carload lots, practically as retailers, without any system of distribution, just at the mercy of whoever happens to buy.

Mr. VOIGT. You say that the wholesalers are not buying on this falling market?

Mr. FREE. No.

Mr. VOIGT. Suppose the packers had the legal right to buy, do you suppose they would be buying if the wholesalers can not?

Mr. FREE. I know that one concern had a contract for 10 years, and when this decree was entered, that, of course, ended that contract. I know that they took care of the output of 10 canneries in California. Now they were bound under that contract, and they would have continued operating under that contract. But I am not advocating putting them back to that position. I am advocating that they be permitted to handle it on the commission basis, and that you perfect some legislation to give us access to their distributive system.

Mr. GERNERD. In other words, to regulate the packing system, whether it is the packing system or transportation of meats; but so that there is no undue discrimination?

Mr. FREE. Yes. Let any man, whether he be a lemon grower or a prune grower or an apricot grower, have an opportunity to offer his product to these concerns, and say, "Here, you sell these for me on a commission," and they take the product and they sell it and take

out their commission. Now, I have understood, although I have not verified it, that they have sold on as low a turnover as 2 per cent on some of the California products; and if they could do it then for as low as 2 per cent, suppose now that it costs 8 or 10 per cent to do it, why that beats 50 per cent or 100 per cent or 200 or 300 per cent which you are getting now.

The CHAIRMAN. You suggest, then, limiting them to commission business, strictly commission business?

Mr. FREE. Yes.

The CHAIRMAN. Well, wouldn't that work to the disadvantage of some one who would not be able to place it at their disposal on a commission—a smaller dealer, I mean?

Mr. FREE. I am not worrying about the fellow who is a small pickpocket who is trying to live off the consumer.

The CHAIRMAN. I mean the producer. I am referring to the small producer who may not be able to place it at their disposal on a commission.

Mr. FREE. Oh, the small producer would be able to turn it over to them to sell on commission.

The CHAIRMAN. If such an arrangement could be made?

Mr. FREE. Yes.

Mr. VOIGT. Why couldn't you people establish a warehouse in Washington and a warehouse in New York and a warehouse in Philadelphia and in other large places, and sell your own goods from there?

Mr. FREE. Well, now, that sounds fine, but let me just illustrate that situation to you. I don't know the whole number, but I know, for instance, that in my own county where I reside we have 34 different canneries. Now, a man puts up a pack of, we will say, 100,000 cases of goods. Now, he comes in competition with every other man who is putting up canned goods. He is going to go to the expense of establishing a warehouse in Washington and another one in New York. Here is what we are up against there. The minute that we try to get together, our associations, your Federal Trade Commission comes down and says, "You are a monoply," and they file suit against you to put you out of business. Therefore we have no opportunity to market on a big system. Because it takes a tremendous amount of money. You take a cannery that would probably spend a million or two of dollars to put up their pack, they can not go out and spend another hundred thousand dollars to market that pack.

Mr. VOIGT. But you have an institution in California now that markets a big portion of your crop on a cooperative basis.

Mr. FREE. But that is in a limited way. That is a peculiar sort of fruit, and is handled in a limited way. They practically control the whole crop.

Mr. THOMPSON. What is that that you refer to—the raisins?

Mr. FREE. No; the California Fruit Exchange of southern California. They handle the oranges of southern California.

Mr. THOMPSON. Don't the raisin people in the San Joaquin Valley handle it in that way?

Mr. FREE. They have no marketing system. They would be up against it just as bad if it were not for the fact that some fellows like to make a little booze out of the raisins. They happen to be living

in clover at the present time but they haven't any distributing system.

Mr. THOMPSON. They were here for us to appropriate money so that they could change the grape vines that they had into some other kinds of grapes. But they have decided to continue, I guess.

Mr. FREE. As long as a man's taste is what it is, they will have no trouble marketing that fruit.

Mr. TEN EYCK. You spoke of the cost to the consumer. Now, last fall in New York State a large percentage of our apples were allowed to rot under the trees on account of the high cost of labor—and large production, I suppose, had something to do with it—and on account of the high cost of labor, large production, the lack of a good market, and the cost of the container, which cost more than we could get for the fruit that was hand-picked—why, the fruit was allowed to rot on the ground. Now, at that same time I was paying 20 cents for an apple on the breakfast table in a hotel in New York, while these apples were produced within express distance of over night to those same hotels. Now, from that I deduced that our marketing system and the cooperation between the producer and the consumer were at fault.

Of course this legislation that you speak of, that may have affected you, but we, in New York, are affected from an entirely different cause, for an entirely different reason. Isn't that so, Mr. Clarke?

Mr. CLARKE. Yes, sir.

Mr. FREE. I have figured out the peach output in the United States, and if you distributed those peaches throughout the country there would only be two halves of a peach to each individual in the United States. It is a question of putting them down to the place where they would be consumed, and putting them in the reach of the individual where he could buy. The trouble with our system is that the channels are so tied up that the individual himself has got no place to buy in competition with the little retailer who will make perhaps 10 cents on an apple.

I have taken a good deal of your time, and will not take up any further time now. I thank you.

The CHAIRMAN. Thank you very much.

Without objection the committee will stand adjourned until 10 o'clock to-morrow morning.

(Thereupon, at 4.40 o'clock p. m., May 3, 1921, the committee adjourned until 10 o'clock a. m., Wednesday, May 4, 1921.)

MEAT PACKER.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Wednesday, May 4, 1921.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gemerd, Mr. Clague, Mr. Clarke, Mr. Aswell, Mr. Kincheloe, Mr. Jones and Mr. Ten Eyck.

The CHAIRMAN. Mr. Lightfoot, are you ready to go on this morning?

Mr. LIGHTFOOT. Yes, sir. Mr. Chairman, there are several of the smaller packers present this morning who desire to be heard.

The CHAIRMAN. You can control the time and whatever you agree upon is agreeable to the committee.

Mr. LIGHTFOOT. Mr. Nash, the vice president of the Institute of American Meat Packers, will be heard first.

STATEMENT OF MR. S. T. NASH, VICE PRESIDENT INSTITUTE OF AMERICAN MEAT PACKERS AND PRESIDENT OF THE CLEVELAND PROVISION CO., CLEVELAND, OHIO.

Mr. NASH. Mr. Chairman, my name is S. T. Nash, and I am president of the Cleveland Provision Co., a packing concern that has been doing business in Cleveland for 40 or 50 years, a so-called independent packer. The large packers have no interest whatever in my business.

If I may, I would like to give you a short history of the progress of our business. We have grown each year and developed our sales until last year we had a business of $35,000,000 of sales.

We have been in active competition all the time with all the big packers, and I want to say I have been in the packing business all my life, and I believe there always has been very keen competition in the packing business. We have to sell our products in the city of Cleveland against about one dozen packers.

The fresh-meat business, as you may know, is a business where the big packers ship in their products into all the big centers in carload lots, and it is perishable and has to be sold, if the weather is warm, and it can not be held, and sometimes there is very keen competition, because if they get overloaded and ship in more stuff than the market will take or if the weather gets bad, or something of that sort happens, that means a very low market.

There is no opportunity, and never has been, in the packing business any possibility, either in fresh pork or fresh beef, to maintain prices, because the product is sold, according to the condition it is in, and has to be moved within a few days.

I am down here because I believe that there has been and always has been, competition in the packing business and therefore that it should not be singled out in a special way for special legislation. I think it will be hampering to the business and will not accomplish the end desired.

Mr. WILLIAMS. Are you opposed to any regulatory legislation?

Mr. NASH. I am opposed to any legislation unless it is general legislation that takes in all business. I do not believe in any special legislation against any special business unless and until the reason for that legislation has been properly expressed. There is no evil that I know of in the packing business that has been definitely pointed out as requiring such legislation.

I wanted to show the development of our business in order to show that it is not true that independent packers can not prosper; that the big fellow has been able to destroy us all and keep us down. We have developed and increased our business as fast proportionately as almost any other packer.

Mr. CLARKE. Do you know of any other instances?

Mr. NASH. Plenty of them; yes, sir.

Mr. CLARKE. Can you cite some of them here?

Mr. NASH. Kingan & Co., a very large packing concern.

Mr. CLARKE. Whereabouts are they?

Mr. NASH. Indianapolis. John Morrill & Co., of Ottumwa, Iowa, very large packers; Hammond Standish, of Detroit; Dold, of Buffalo; and many, many others.

Mr. TINCHER. How many hundred independent packers have failed where one has succeeded?

Mr. NASH. There have been a good many failures lately.

Mr. TINCHER. I mean prior to this depression.

Mr. NASH. I should say there have been lots of them. I would like to give my idea of the reason for those failures. I remember out in Iowa 25 or 30 years ago, or 35 years ago, the State was dotted with packing houses and people went into them as they had been going into the business in the last few years, because they thought there was a gold mine in it. There never has been a gold mine in it. It has always been subject to a small margin, and unless efficiently managed and properly financed can not succeed. These plants that have failed, almost in every instance, are plants that went out and made a lot of propaganda about money there is in the packing business, sold their stocks to farmers and people around the country, and got insufficient funds, so that by the time they got their plants built they had no money left for working capital, and that is the main reason why most of those fellows have failed.

There are a half dozen in Iowa and many others in the Northwest that have failed.

Mr. CLARKE. The proportion then is not particularly different from the proportion of failures in other businesses?

Mr. NASH. I do not know about other businesses, Mr. Congressman, but I do know that is the reason for most of the failures of these cooperative and packing plants that are started up by people who have not got the money or who fail to get enough money.

I stated a year or two ago down here that we never looked backward in our business after the Interstate Commerce Commission was created with teeth in it to regulate rates, to take out all discrimina-

tion from transportation, to do away with rebates, special rates, midnight rates, and things like that. The Interstate Commerce Commission did that and put us and any other independent operator on an equality of opportunity of buying the raw material and shipping the processed product after it was killed.

Mr. TINCHER. You mean by that it put you in position to——

Mr. NASH. Equally——

Mr. TINCHER. So that if there was a price fixed by the five big packers, that put you in position to get the benefit of that price?

Mr. NASH. No; I say that put us in position where nobody could buy or ship at less proportionately than we could. There was a time way back there when the railroad rates were made with regard to volume. If a man offered 100 cars he got a better rate than a man offering 2 cars. The interstate commerce law stopped that. That was the only thing that we were laboring under, to my mind, that was unfair or where there was any possibility of the bigger man getting an undue advantage over us. Since then I do not believe there has been any, except as far as big business with big volume may be able to economize and do the business cheaper; but there was no fundamental reason why a small packer should not succeed as long as he could buy his raw material at the same price as the other fellow and ship it to his plant at the same rates, without any discrimination, and ship the cured products out without discrimination. That is the law that made our business, large and small, and put us on an equal footing, to my mind.

Mr. WILLIAMS. That law was opposed by the railroads and the interests very vigorously here in Congress for many years.

Mr. NASH. I presume it was. Yes; I believe it was, but there were certainly some definite evils that that law proposed to cure, which were rebating, unfair making of rates, etc., and many other things that were definitely stated. The purpose of that law was well known, and the reasons for that law being changed and being made more rigid were well known, and in the case of legislation against the packers, it seems to me there has been no definite reason given as to why the packers should be legislated against, large and small.

Mr. WILLIAMS. Do you not think there is a general sentiment throughout the country that there are evils in the packing industry that should be properly regulated?

Mr. NASH. I think so; I do not think there is any question about that; but I do not know that they have ever been proven. There has been a lot of loose talk about the evils in the packing business; but I am in the packing business and I would like to know where they are.

Mr. TINCHER. All right; maybe we can help you. Did you know that it has been admitted and proven that since there has been no legislation on this subject, the five big packers have had a separate corporation for the manipulation of their business and that they met every morning?

Mr. NASH. No, sir; I did not know it.

Mr. TINCHER. Did you know that there had been what was known as a legislative organization of the five big packers, of which Mr. Veeder was the head, and the principal office was at his office?

Mr. NASH. No; I did not know definitely about that. I know that since the big five packers have been attacked, they naturally have to

fight back, and I should think that their lawyers would be together in their attack. I do not know that they are, but I should think they would be.

Mr. TINCHER. You never heard tell of such a thing as a corporation in which the five big packers were the sole stockholders?

Mr. NASH. I did not.

Mr. TINCHER. That corporation being organized after the antitrust laws were passed?

Mr. NASH. No, sir.

Mr. TINCHER. And having a place where the big five packers met every morning, through their representatives, to decide on the policy of business for that corporation for the day?

Mr. NASH. No, sir.

Mr. TINCHER. Did you know that there was a claim made by an arm of this Government that for the protection of themselves, as you call it, or for lobbying purposes and so on, they had levied as high as $50,000 assessments on one another and paid them through one law office in Chicago, and had kept no record of those transactions?

Mr. NASH. If I know anything about it it is from reading the Federal Trade Commission report.

Mr. TINCHER. Did you read that report?

Mr. NASH. Yes, sir; I read that report.

Mr. TINCHER. While that is a report of a department of this Government, not saying that absolutely all of it is true, yet there are a great many things in the Federal Trade Commission report that Mr. Veeder and the distinguished gentlemen representing the packers have admitted here in the committee hearings as being true. Do you know what part of the Federal Trade Commission's report is admitted to be true and the part of it that is denied by the packers?

Mr. NASH. No, sir; I do not.

Mr. TINCHER. Well, having read the Federal Trade Commission report, knowing the charges therein contained and not knowing the portion of that report which is denied by the packers, how can you conscientiously say to a legislative committee that no legislation on this subject would be to the best interests of this country?

Mr. NASH. I know there are a whole lot of things in that Federal Trade Commission report that I know are not true. I think a report that is so full of inaccuracies is not a very dependable report.

Mr. TINCHER. I will ask you to state one thing that is in the Federal Trade Commission report that you know is not true.

Mr. NASH. All right; I will do that.

Mr. TINCHER. And I will say to you that when you do that, you will be more specific and definite than any other packer I have ever heard testify.

Mr. NASH. All right. In that Federal Trade Commission report—and it is some time since I read it—it is stated that Morris & Co., in a certain year made 700 per cent profit. That is one report in the Federal Trade Commission report that is not true.

Mr. TINCHER. You say that that is in the Federal Trade Commission report that you read?

Mr. NASH. Yes, sir.

Mr. TINCHER. You do not know what volume it is in or anything like that?

Mr. NASH. No; I do not.

Mr. TINCHER. Now, you know that is not true?
Mr. NASH. I know that is not true.
Mr. TINCHER. How?
Mr. NASH. By the official, annual reports, sworn to and issued by Morris & Co., as to their profits.
Mr. TINCHER. You mean you have read a report of Morris & Co., which says it is not true?
Mr. NASH. No; I have read their annual statement.
Mr. TINCHER. Let us see about that. You have read a report of the Federal Trade Commission claiming that in a certain year Morris & Co. made so much money on their original investment or their capital stock.
Mr. NASH. No; it said they made 700 per cent profit. That is what it said.
Mr. WILLIAMS. On what?
Mr. NASH. That was the trouble.
Mr. WILLIAMS. Did it not say on what?
Mr. NASH. No; it did not say.
Mr. WILLIAMS. You do not deny then that they might have made 700 per cent on something?
Mr. NASH. They might have made 700 per cent on something.
Mr. WILLIAMS. Then you can not say the report is not true.
Mr. NASH. Well, anyway, it is a very misleading report; you would admit that, wouldn't you?
Mr. CLARKE. Was not the idea you had in mind that an ordinary person would deduct from that statement the inference that they made 700 per cent on their capital stock?
Mr. NASH. And surplus. That is what the natural assumption would be by people——
Mr. TINCHER (interposing). What per cent did they make?
Mr. NASH. I think they made about 7 or 8 or 10 per cent on their capital and surplus.
Mr. TINCHER. Now, do you want to say to this committee, for the purpose of influencing us on legislation, that we should or should not pass; that 7 or 8 or 10 per cent is a proper amount to figure on Morris & Co.'s business instead of 700 per cent?
Mr. NASH. Yes, sir; I would like to say that.
Mr. TINCHER. Now, it would make some little difference to the committee in considering this matter whether it was 700 per cent or 7 or 8 per cent or 150 per cent or 200 per cent. Now, what was the real profit, since you know about this thing?
Mr. NASH. The profit on their capital and surplus was something less than 10 per cent.
Mr. TINCHER. Suppose they have admitted it was 150 per cent and declared a dividend or stock dividend to that amount, would your testimony be very valuable to this committee?
Mr. NASH. I should say no. If it was dealing with the same year it would be worthless.
Mr. TINCHER. All we can go by is the testimony that we hear up here, the facts we are able to get from the records and from the witnesses who appear before us.
Mr. NASH. Now, let us talk about profits a little bit, anyway. If you are going to estimate profits on surplus and money invested, I

will venture to say that no packer has ever made 150 per cent in any year, or ever will.

Mr. TINCHER. If you have made an investigation such as would make your venture of value to the committee that would be very valuable testimony, but we are supposed to have people here who have made an investigation and who give us actual figures to go on. Now, you say those figures are inaccurate, and in fairness to the committee you ought to give us some actual figures to go on in order to dispute those actual figures.

Mr. NASH. I think I should. I think I can give them to you.

Mr. TINCHER. Suppose the five big packers maintain an organization, since there has been no legislation, to employ lobbyists and pay their unaudited expenses; that they maintain an organization, of which no record is kept but in which they levy assessments on each other amounting to as much as $50,000 to influence legislation; that they maintain an organization to elect candidates who would wink at violations of law and defraud those pledged to fair enforcement; suppose they maintain an organization to control tax officials and evade just taxation; to secure modification of Government rules and regulations by devious and improper methods, to buy up public opinion by the control of editorial policy through advertising, loans, and subsidies; and by the publication and distribution at large expense of false and misleading statements. If that condition exists, and has existed, since there has been no legislation on this subject, do you think this is a subject that the American Congress could afford to take notice of and pass some Federal legislation that would obviate those troubles?

Mr. NASH. This legislation that is here proposed is legislation affecting the entire packing industry. I am representing myself, not the big packers. I am an independent packer, and if any crime has been committed by the big packers I shoul! think they are subject to punishment by laws already on the statute books.

Mr. TINCHER. You think there is plenty of law now?

Mr. NASH. I do, sir.

Mr. TINCHER. What laws?

Mr. NASH. The antitrust laws.

Mr. TINCHER. Which one?

Mr. NASH. The Hepburn.

Mr. TINCHER. The Hepburn antitrust law you think would reach the situation?

Mr. NASH. And the Clayton antitrust law. I think the laws we have got are ample to take care of any violation of law or unfair practices, or the things that the big packers, particularly, have been accused of. The small packers have never been accused of anything that I know of.

Mr. TINCHER. Suppose the packers had been guilty of the things that are charged by the Federal Trade Commission that I have read to you, and none of them has ever been in jail, do you think we have sufficient laws for the governing of this question?

Mr. NASH. I doubt if any other law is going to put them in jail.

Mr. CLAGUE. A lot of us ought to be in jail, maybe.

Mr. CLARKE. I think the Department of Justice ought to be investigated, if you get right down to it, Mr. Tincher, if that is true.

Mr. TINCHER. Here is a bold statement made by the Federal Trade Commission's report, which you have read and are familiar with:

> Henry Veeder, the manager of the Veeder pools in the nineties, is the assessor, collector, and paymaster of these joint funds, and his office is the clearing house through which the money passes and to which reports are sent. Although single assessments for these funds range as high as $50,000, Veeder claims he keeps no books showing the disposition of these large sums of money, but the many letters now in our possession show specifically to whom a part of the money was paid and for what purpose.

Have you run down that clause in the Federal Trade Commission's findings?

Mr. NASH. No, sir; I have not.

Mr. TINCHER. You do not know who they spent that money with?

Mr. NASH. I do not.

Mr. TINCHER. You do not know of any public officials that were retained?

Mr. NASH. I do not.

Mr. TINCHER. By a portion of that money?

Mr. NASH. No, sir.

Mr. TINCHER. Do you not think that some enlightenment on that subject might influence your testimony before this committee as to whether we should pass any legislation or not?

Mr. NASH. No; I do not think it would.

Mr. TINCHER. It would not make any difference about the truth or falsity of that statement, and that would not influence you one way or the other.

Mr. NASH. I do not think that would determine whether legislation was necessary or wise that was to affect a whole industry, simply because one or two or three persons in that industry may be accused of doing wrong.

Mr. TINCHER. Now, the reason you are not complaining of the condition is that there is no control that prevents you from buying cheap enough and selling high enough, is not that it?

Mr. NASH. I did not get that.

Mr. TINCHER. The reason you are not complaining of any evils that exist in this business, or of any monopolistic control that the Big Five packers exercise over the business, is that if there is such a thing it does not influence or keep you from buying cheap enough and selling high enough.

Mr. NASH. I do not believe there is any monopolistic control in our business.

Mr. TINCHER. But if there is, and you apparently are not the final judge of that, it does not keep you from buying as cheap as they do or from buying cheap enough and selling high enough.

Mr. NASH. No.

Mr. TINCHER. Now, do you realize, sir, that there is a large percentage of the population of this great country of ours who are not in your identical position in reference to this matter?

Mr. NASH. I certainly do.

Mr. TINCHER. And that one large percentage of them are trying to produce for the other per cent and the consuming public might not look at this through exactly the same lenses that you do?

Mr. NASH. I know, of course, that they do not. I know that neither the producer nor the consumer has looked at it the same as we do.

Mr. TINCHER. As I understand you, you claim that if they are guilty of all these things, still we do not need any laws, because we have sufficient laws on the subject.

Mr. NASH. I did not understand that this argument was to be confined to the sins of the big five packers. I thought this was legislation dealing with the entire packing industry, to which I belong.

Mr. TINCHER. Suppose the big five packers control a sufficient amount of the products to absolutely make it possible, and that they do actually, fix the price you pay the producers; and, of course, you buy as cheaply as you can and do not pay him any more than you have to, and practically fix the price at which you sell to the man who sells to the consumer—suppose that condition actually exists——

Mr. NASH. I do not think it does exist.

Mr. TINCHER. If it does exist, and we destroy that control, that would affect you to some extent you think? In other words, you are profiting by that control, you think?

Mr. NASH. You mean under the present law?

Mr. TINCHER. Yes.

Mr. NASH. If it exists, I do not think we are at all.

Mr. TINCHER. Then, if you are not, the legislation, if it exists, will not affect you or hurt you.

Mr. NASH. If legislation is just piling on expenses to a business, I think such legislation is wrong in a competitive, commercial business. I do not see why one industry should be picked upon. If there are any sins in that industry, let us put our fingers on that situation. If the Big Five packers are such criminals, I think with all the laws in this country we ought to have been able to put them in jail before this. Now, we have not.

Mr. TINCHER. The railroads were of such a public nature and of such magnitude, and the carrier proposition was of such magnitude, that it became necessary for the Government to step in to afford a brotherhood for man and to protect you from the big packer.

Mr. NASH. Yes; that is right.

Mr. TINCHER. Now, then, if the big packer is to be compared with the railroads as to magnitude and size, and if the public needs that protection, is it not just as worthy for the Federal Government to step in and protect the general public as it was to protect you in assuming control of the private railroads?

Mr. NASH. Yes; but the private railroads are also a public utility.

Mr. TINCHER. Do you not consider that if the big packer do control the food products of this country and the price of them that that is of a public nature as much as——

Mr. NASH. Yes; of a public nature, but that should not necessarily subject them to any hampering control.

Mr. TINCHER. Now, as I understand you, you think that the common carrier that carries a man from one station to another or that carries produce from one station to another is of such a public nature that the Government must look after it, but the handling of food products that every man, woman, and child in the United States are interested in, is not of such a public nature that the

American Congress should give any heed to it even though it is controlled by a monopolistic control.

Mr. NASH. But it is not.

Mr. TINCHER. There is some difference of opinion between you and a great many good people; but suppose it was, would you be in favor then of the Federal Government——

Mr. NASH (interposing). Yes, sir; if there was monopolistic control I would be in favor of such action restricting that control.

Mr. TINCHER. Then if there is serious question before Congress as to whether there is a monopolistic control and if the great weight of the evidence is that there is, what would be Congress's duty in that regard?

Mr. NASH. That is up to Congress. If the evidence in their opinion is that there is that monopolistic control, I think Congress ought to enact some sort of legislation.

Mr. TINCHER. I just wondered what your views were.

Mr. WILLIAMS. Have you read the various bills pending before the committee?

Mr. NASH. Yes, sir.

Mr. WILLIAMS. What do you object to in those bills as affecting you, as an independent packer?

Mr. NASH. Well, I object to what I call the confiscation of our stock yards stock. The Big Five packers have agreed by this consent decree to give up their stockyards stock within two years. Both of these bills, the Haugen bill and the other bill, take away from all packers their stockyards stock or any interest in stockyards. I think that is confiscatory because the very fact that you are compelled to sell your stock depreciates its value at once, because the packer is a help to stockyards. He is the man who buys the stuff there and if he is friendly to it and favors it, the stockyards is in better shape. If the stock is all to be taken away from them, the very fact that people generally who might buy stockyards stock would know they have to sell would make the value of that stock less, would it not?

Mr. WILLIAMS. Is your company financially interested in stockyards?

Mr. NASH. Yes; in the Cleveland yards. We own about 15 per cent.

Mr. TINCHER. Who owns the rest of the yards?

Mr. NASH. Swift & Co. did own 10 per cent. The balance is scattered among about 400 stockholders.

Mr. TINCHER. Who controls the stockyards or who has had control?

Mr. NASH. I think there is a man down in Louisville and certain interests in Buffalo, neither of them packing interests, that would control them. They are the largest stockholders by far.

Mr. CLARKE. You say your stockholders list is over 400?

Mr. NASH. Yes, sir; I think so.

Mr. CLARKE. How was that stock distributed?

Mr. NASH. It is an old company and the stock has been acquired.

Mr. CLARKE. And held in certain families for some time?

Mr. NASH. Yes; it is held by some estates. A lot of them are small stockholders.

Mr. JONES. Did this man who owned the controlling stock have an interest in any packing concern?

Mr. NASH. No; he does not own control himself, but he and another one or two, I think, would control them.

Mr. JONES. And they have no stock in any packing company?

Mr. NASH. No; none at all.

Mr. TEN EYCK. Do they hold that as an investment? Is that stock a good investment?

Mr. NASH. Yes; they have been in the stockyards business all their lives and built it up.

Mr. MCLAUGHLIN of Nebraska. With reference to that section of the bill to which you object, have you noticed in reading all the bills that deal with that subject that there was a specified time given in which the packers may divorce themselves from their stockyards holdings, and further, that the Secretary of Agriculture or the commission, whichever it may be as provided in the bills, may in their discretion extend the time?

Mr. NASH. Yes.

Mr. MCLAUGHLIN of Nebraska. Indefinitely.

Mr. NASH. I do not know about indefinitely.

Mr. MCLAUGHLIN of Nebraska. Yes.

Mr. NASH. There is not much sense, it seems to me, in telling a man to sell his stock and then saying that it may be held indefinitely.

Mr. MCLAUGHLIN of Nebraska. Yes; they may extend the time in their discretion, if they find there are no discriminatory practices or that there is not sufficient reason for requiring them to divorce themselves of their stockyards holdings.

Mr. NASH. No; my understanding was it was a decree to divorce themselves at some time from their interests. I did not know that it was proposed that they would be allowed to eventually retain them.

Mr. MCLAUGHLIN of Nebraska. I think you will find that the provisions of the bill require nothing further than already agreed to by the packers in the consent decree.

Mr. NASH. Well, I am speaking as an independent packer. We were not in the consent decree, we did not come in.

Mr. MCLAUGHLIN of Nebraska. I understand.

Mr. NASH. The independent packers were not compelled to get rid of their stockyard stuff; that was just for the five big packers.

Mr. MCLAUGHLIN of Nebraska. In answer to Congressman Tincher's question, you said that there was one place where the Federal Trade Commission was inaccurate in its statement, and you said that in some certain year they made the statement that the profits of Morris & Co. were 700 per cent. I find in part 5 of the Federal Trade Commission's report, dealing with the subject of profits of the packers, on page 41, these words:

> No figures are presented showing the rate of profit on investment defined as "capital stock outstanding," as this gives in cases a misleading view as to the reasonableness of the return. Such a rate would mean very little in the case of the packers, because of the varying policies which the several companies have pursued in respect to issuing stock dividends. Morris & Co., whose surplus is now some 14 times greater than its capital stock, would show an enormous rate, while Armour & Co., which has capitalized surplus to a large extent, would show a much lower rate—thus the earnings of the two companies, based on net worth or on total investment, were not very dissimilar.

In table 11 on page 42, "Rate of 'earnings' of the five great packers on total investment," I find for the six years from 1912 to 1917, the

percentages of profit per year, and that the average for Morris & Co. was 9.2 per cent.

As I remember in reading the report of the Federal Trade Commission there was no other definite figure stated as to the profit of Morris & Co. It seems to me that you owe it to the committee to find that place and put it in the record – that is, where there is the statement made of 700 per cent.

Mr. NASH. Certainly; if I am wrong, I will admit it. I had a distinct understanding when Mr. Tincher asked me to give that. I know that I have seen it published, may be in a newspaper report of the Federal Trade Commission report estimating what that would be, but I know that I saw it blazonly across our paper that the Federal Trade Commission claims Morris & Co. made 700 per cent. My memory may have failed; it has been two or three years ago, or quite a little while ago since I read it, and I may be wrong, but it is full of inaccuracies. It is rather difficult to ask me right now to point that out.

Mr. MCLAUGHLIN of Nebraska. Well, inasmuch as you have made the statement, you should point out to us, before you leave this hearing, some definite inaccuracies?

Mr. NASH. All right; I think I ought to do that.

Mr. MCLAUGHLIN of Nebraska. If you are in a position to look up the facts.

Mr. NASH. I will be glad to do that; all right.

Mr. WILLIAMS. If Congress should enact legislation, leaving the ownership of the stockyards as they are now——

Mr. NASH (interposing). Yes, sir.

Mr. WILLIAMS (continuing). But regulating them in some way, placing them in the hands of the Federal Trade Commission, would you have any serious objection to that kind of legislation, provided it was reasonable?

Mr. NASH. No.

Mr. WILLIAMS. You would not?

Mr. NASH. No. I object to legislation if it means an increased cost of government. Where we have other commissions or existing boards that can do that, I object to the introduction of other commissions. We have the Interstate Commerce Commission and other commissions, and I do not see any sense in having further commissions.

Mr. TEN EYCK. Would it not be beneficial if some sort of regulation, either by State or Government, similar to that which is at South St. Paul, could be had?

Mr. NASH. I do not know what the regulation is at South St. Paul.

Mr. TEN EYCK. They claim under those regulations of the State, I understand, that the South St. Paul stockyards have gone from fifth place of business in the country to fourth place.

Mr. NASH. Yes, sir.

Mr. TEN EYCK. Because the producer feels assured that he is going to get a square deal.

There is one other thing that I wish to ask you in relation to the control of the stockyards. The control of the stockyards does not amount to very much unless they use it to elect directors. Are the directors of the stockyards representatives of the packers and do they control the board?

Mr. NASH. In our stockyards?

Mr. TEN EYCK. Yes, sir.

Mr. NASH. No; they do not. My brother is a director, and there is one other packer represented on the board, and I think the board is composed of 9 or 11, and there are 2 packer representatives on the entire board.

Mr. TEN EYCK. Are the other directors directly or indirectly connected with the so-called trust?

Mr. NASH. No, sir. You mean by "the so-called trust" the Packer Trust?

Mr. TEN EYCK. Yes, sir.

Mr. NASH. I do not know. I do not belong to the so-called packer trust; I am an independent packer.

Mr. TEN EYCK. I am not talking about your brother.

Mr. NASH. He is a director.

Mr. TEN EYCK. I am talking of the majority.

Mr. NASH. I am talking of the Cleveland stockyards where our plant is.

Mr. TEN EYCK. I am talking about the board of directors.

Mr. NASH. Of the stockyards?

Mr. TEN EYCK. Yes, sir.

Mr. NASH. There are two representatives of the packers on our stockyards.

The CHAIRMAN. How many in all?

Mr. NASH. I am not sure whether it is 9 or 11; it is 9, anyway.

Mr. CLARKE. Would you say that it might be considered a necessary adjunct of the railroads to take over the stockyards the same as it has its freight yards, terminals, etc.?

Mr. NASH. Well, we went through that in our business many years ago and we used to consider that the railroads owning the stockyards was a distinct menace to us as independent operators.

Mr. CLARKE. Why?

Mr. NASH. Because, at least in those days when they owned them, they had the power to give special service and sometimes special rates to the yards they owned in discrimination against the non-railroad stockyards, which was a very unfair proposition. In the old days Buffalo had railroad-owned yards.

Mr. CLARKE. Would not that control come now within the purview of the Interstate Commerce Commission?

Mr. NASH. Well, it would if it was specially arranged. I do not know what control the Interstate Commerce Commission could have over stockyards, because——

Mr. CLARKE (interposing). As a part of the transportation system.

Mr. NASH. It could not have any control over that part of the stockyards business that was intrastate, could they?

Mr. CLARKE. Probably not.

Mr. NASH. Take many of our yards which are located in the center of the State, almost the entire business originates within that State.

Mr. JONES. I was not here when you started, Mr. Nash, and if this matter has been gone over I will not go into it. Does your concern own any private refrigerator cars?

Mr. NASH. Yes, sir; we do.

Mr. JONES. How many do you own?

Mr. NASH. We own about 175.

Mr. JONES. Do you use what they call the "tramp car?"

Mr. NASH. Do you mean the peddler car?
Mr. JONES. Yes, sir.
Mr. NASH. Yes, sir.
Mr. JONES. Do you use that rather extensively?
Mr. NASH. No; we probably have 15 or 20 a week going out.
Mr. JONES. Does your concern own your peddler cars?
Mr. NASH. We own them; we own all our cars, we use our own cars.
Mr. JONES. Not only the refrigerator car, but the peddler car as well?
Mr. NASH. Yes, sir; the peddler car is a refrigerator car.
Mr. JONES. What products, other than meat, do you handle through the peddler car?
Mr. NASH. Very little; it is negligible. We do a little business in cheese, a little bit in butter and eggs, but the total value of our business, outside of the direct packing business, is practically nothing.
Mr. JONES. In the handling of these private refrigerator cars do you get special service from the railroad companies?
Mr. NASH. No, sir.
Mr. JONES. Is there any preference given in the shipment over ordinary freight?
Mr. NASH. I do not know about ordinary freight. As to whether perishable products are given in some cases better service than the slow-moving nonperishable freight, I think probably they are.
Mr. TEN EYCK. That is to say, perishable freight is given preference over ordinary freight?
Mr. NASH. Yes, sir; I think it is.
Mr. JONES. Your private refrigerator cars would have special service over ordinary freight?
Mr. NASH. Over such ordinary freight as lumber and nonperishable things, because the railroads are of necessity bound to move the perishable a little more quickly.
Mr. JONES. When you put nonrelated products in, do they do that?
Mr. NASH. We do not.
Mr. JONES. In these cars they would have a preference shipment over what they would have if they did not go in refrigrator cars?
Mr. NASH. If we deal in what you call unrelated products, which are as highly perishable as meat, butter, and eggs we have only some small business in, I may just as well say we are straight packers, we have no unrelated products.
Mr. JONES. There were a lot of things that the packers put in their refrigerator cars, prior to the entry of this consent decree, that were not perishable products?
Mr. NASH. Yes.
Mr. JONES. So far as they put those in the refrigerator cars it gave them a preference shipment over ordinary freight and they had a preference shipment on those articles?
Mr. NASH. It might be that they had. I should think, however, that a man competing with a packer, who is a wholesale grocer, shipping in carload lots, his products would get the same service.
Mr. JONES. If he had the use of the refrigerator cars, but if he were dealing exclusively in these unrelated products and did not handle meats then he could not get the preference shipments?

Mr. NASH. If he does not need the refrigerator cars for his products, he does not have to get them.

Mr. JONES. I understand that perfectly, but suppose a man has a lot of refrigerator cars and he uses half of those cars for refrigeration and the other half for articles that do not require refrigeration, does not he get an advantage, in actual competition, over the man who does not have the cars?

Mr. NASH. In what way?

Mr. JONES. He gets a preference shipment, he can deliver to the retailer at an earlier day?

Mr. NASH. Those things are all carried in stock, as a rule.

Mr. JONES. I understand, but he can deliver more quickly?

Mr. NASH. Not if he delivers out of the stock.

Mr. JONES. For instance, I have observed in my section of the country that the local merchant will turn the wholesale grocery drummer down on orders because, he will say, "I can order from Swift & Co. and get it down here to-morrow morning, whereas if I order it from you it will take two or three days or a week, they have special service cars."

Mr. NASH. Not arguing the question as to the advantage of the packers, they had something which they have given up.

Mr. JONES. They are asking that that agreement be done away with, or some one was speaking of it—I do not know whether it was the packers.

Mr. NASH. They have agreed to give up unrelated goods. They are not dealing with them, but the only advantage I can see that the packer ever had, and I think it is a sound economic advantage, which he never should have given up—never should have given up—that is the right to deal in any legitimate business with his own money, that is a sound economic proposition——

Mr. JONES (interposing). I do not know but you are right on that. If you are going to let him engage in this business, ought not he to be deprived of the special advantage of handling these other related or unrelated products, if they do not require private refrigerator cars?

Mr. NASH. It is a big nuisance to own refrigerator cars. We have two or three hundred thousand dollars invested. I am willing that the railroads or the Government should take all refrigerator cars, provided they will always supply us with good refrigerator cars when needed. The reason we bought these cars was not that we wanted to tie up our money in railroad equipment, but because we could not get cars when we wanted them. The railroads had no money to buy them and would not build them. That is the reason we got into the car business. I presume that is the reason all the other packers got into the private car business. Our car business has never shown much of a profit, over 6 or 7 per cent when new, and now that they are old, what you get back does not pay.

Mr. JONES. Do you not think if they are permitted to have the private refrigerator cars they should be limited in the use of them to only those products that require refrigeration?

Mr. NASH. They are now; they have given up the unrelated products.

Mr. JONES. Possibly some of the unrelated products to not require refrigeration?

Mr. NASH. Certainly. They do not ship goods that do not require refrigeration in refrigerator cars; it is too expensive.

Mr. JONES. Everything of the animal that is manufactured into something requires refrigeration?

Mr. NASH. No; fertilizer does not.

Mr. JONES. There are, in fact, a great many things manufactured from some part of the animal which do not require refrigeration?

Mr. NASH. Fertilizer, blood, and hair, none of which is sold through their branch houses.

Mr. JONES. Do you mean to say that none of the big packers sell any article under the consent decree now that does not require refrigeration?

Mr. NASH. I say there are a whole lot of things that require refrigeration. Fertilizer, hair, dried blood, none of those things requires refrigeration.

Mr. JONES. Are there not a lot of others that you have not enumerated?

Mr. NASH. Perhaps there are. Of course, there is the hide of the steer that does not require refrigeration.

Mr. JONES. There are a lot of these products of parts of the animal that go into manufacture of products. You do not think the outsiders should be deprived of the privilege of engaging in this business, the people outside of the packers?

Mr. NASH. I do not know that I just understand that question.

Mr. JONES. You say that you think the packers should be permitted to put their money into anything they desire?

Mr. NASH. Certainly.

Mr. JONES. Do you think that outside people should be permitted to put their money where they want to, on the same basis?

Mr. NASH. Absolutely; everybody.

Mr. JONES. Here are a lot of products that these packers sell that do not require refrigeration?

Mr. NASH. Yes, sir.

Mr. JONES. Do you not believe that the packers, if they are permitted to have the private cars, should be permitted to use those private cars, which are alleged as necessary, for the shipment of articles that do not require refrigeration?

Mr. NASH. I certainly do.

Mr. JONES. You think they should be permitted to use the cars for the distribution of products that do not require refrigeration?

Mr. NASH. Yes, sir; but I do not think it is done.

Mr. JONES. Does not that give them a special service, an unfair advantage over the man whose products do not require refrigeration?

Mr. NASH. No, sir.

Mr. JONES. I do not see how you figure it.

Mr. NASH. If they ship cheap goods like hides or fertilizer in a refrigerator car they add to the product's cost. They could ship that out cheaper in another car, because there are not enough refrigerator cars to go around. It is inconceivable that any man owning a refrigerator car costing $2,500 or $3,000 possibly, would ship hides in it.

Mr. JONES. I did not say anything about shipping hides.

Mr. NASH. No; you did not; but I was speaking of goods that do not require refrigeration.

Mr. TEN EYCK. What Mr. Jones means is that when a packer uses half of his own cars marked "refrigerator car" for products that do not require refrigeration, the very fact that the car is not a railroad car with that mark on it will give it special treatment, because it is understood that there are perishable goods in the car?

Mr. ASWELL. They have to pay a higher price.

Mr. TEN EYCK. I was coming to that. To obtain the use of a refrigerator car for nonperishable goods, costs him more; it costs more than the ordinary car.

Mr. NASH. To the railroads?

Mr. TEN EYCK. Yes, sir. It costs more to use that car?

Mr. NASH. Yes, sir; it certainly costs you more to use it, because you need it for some perishable goods.

Mr. TEN EYCK. That is not the question.

Mr. NASH. That is the fact.

Mr. TEN EYCK. The question is this: Should not the railroads be required to give everyone else the same service that they give you?

Mr. NASH. Why, as an academic question, I think that the railroads should give everybody the same service; yes, sir.

Mr. TEN EYCK. I think they try to and they want to, but the very fact that you use a character of car which is advertised on the side as a refrigerator car makes every yardmaster and every trainmaster move that car faster?

Mr. NASH. I do not know.

Mr. TEN EYCK. Which they should do.

Mr. NASH. It might have that effect, and probably has had it. Certainly I know that the beef trains from the West to the East are moved faster, and if that were not so nobody could do business in fresh beef in the East. That is for the economical good of the whole country.

Mr. TEN EYCK. That is right.

The other point that Mr. Jones brought up was that perhaps the big packers are getting some advantage in shipping other than perishable products?

Mr. NASH. The refrigerator car may have some advantage, I do not know, but I can not conceive that there would be any advantage accruing to the packer from using refrigerator cars to ship some nonperishable commodity. There might be a way that he could get it down to a certain point in a day or two less, but I can not conceive of it being of much benefit to the packer on the theory that the refrigerator car provides quicker service so that the packer would get some unusual benefit from shipping nonperishable goods in that car.

Mr. VOIGT. Suppose the packers put a carload of a hundred different commodities into a refrigerator car, they can stop the refrigerator car at every station along a certain line and they can go to any retail butcher or grocery man in that town and find out what he wants and make delivery immediately out of that car. Then they can close up their car and go to the next town and repeat the operation?

Mr. NASH. Yes, sir.

Mr. VOIGT. Do you see how any wholesale dealer in those commodities can compete with the packer?

Mr. NASH. Of course, we are speaking about something which the consent decree has determined shall not go on; in fact, it does not exist.

Mr. VOIGT. This committee may interfere with the consent decree.

Mr. NASH. I will be glad to give you my idea on that.

Mr. VOIGT. You said that you could see no advantage that the packers had in that.

Mr. NASH. He could not have an advantage.

Mr. VOIGT. The question is, shall not we exclude that and put them back in the position they were in before there was a consent decree?

Mr. NASH. I am not familiar with the grocery articles that the packers handled, except the assertion that you had here in Washington, that the total grocery business of the five big packers combined was less than 5 per cent of the total grocery business of the United States, not over. That came out in the hearings. I think that the packer, through his hundreds of branch houses, conveniently located, has an advantage over anybody else dealing in the same sort of articles; I do believe that. I think it was a sound economic advantage that was of benefit to the country, and to the consumer. He has given it up.

Mr. ASWELL. I should like to ask this question: If the packer shipped unrelated products in a refrigerator car along with the beef, did not he pay a higher freight rate than on the ordinary shipment in ordinary freight cars?

Mr. NASH. I do not know. I am not sure what the freight rates were.

Mr. CREIGH. Under the l. c. l. freight rate, ordinary less-than-carload shipments, the packer's shipment would go through the railroad freight house. The railroad itself and the freight house would have to handle it and unload it, mix it up with the other, and have all the difficulty of doing that, billing it, everything to get it into a car.

The packers under the tariffs, which are applicable to everybody, shippers of groceries, everyone, on the old basis when they had articles, groceries, we will say, put the groceries in their own refrigerator car. The packer did all the work of loading it, it did not add to the congestion in the freight house, it took the stuff out of the freight house and there was a large saving of expense to the railroads. The packer did the work and paid the higher freight rate.

Mr. TEN EYCK. What they call broken carload lots?

Mr. CREIGH. Absolutely.

If I might put in one other thing, as I have watched the little debate here, I think that a couple of the Congressmen figure that this peddler car proposition is dependent on it being a private car. There is no such thing as that. The private car has nothing——

Mr. JONES (interposing). I understood that your company owned its cars?

Mr. CREIGH. Yes, sir; but the jobber, who does not own the car at all, has stuff going in a refrigerator car and he works just exactly the same system, under the very same tariff.

Mr. JONES. Then why do you have private cars? If the other man can get them, can not you get them?

Mr. CREIGH. The other man needs, possibly, a car a month, and Mr. Nash is in a business where he needs a definite supply of about 50 cars a week. It is the difference between a person doing a carload business and a person who does an l. c. l. business, drop shipments

along the line. The minute he gets the tonnage up to the point where he can use peddler car tonnage, say, 15,000 pounds, he can get the same service. The tariff is there for everybody. The private ownership of a car has no advantage under that tariff. Take my case, Cudahy, the ownership of the cars does not cut any figure. We own our own cars, but we must ship the same way.

Mr. JONES. Does your company practice the putting of nonperishable products in with perishable products in a shipment?

Mr. CREIGH. To a limited degree. As Mr. Nash has said, the case is so exceptional that it does not bear on it. For instance, we have a car at the packing house that is going down the road, we will say, with some nonperishable stuff which we want to move. When we put it in the car, after hauling it to the car, we pay the same rate as if we put it on a truck and carried it to the freight house and let them load it into an l. c. l. car with somebody else's goods.

Mr. JONES. I understand, but it does give you a quicker shipment and it makes the local dealer who wants to purchase through that process, not, perhaps, because of the less price, but because of the quicker service than the other man who does not own his car.

Mr. CREIGH. Let us put it in two ways. In the first place, we are able to make more frequent deliveries. Is there economical or public disadvantage to that?

Mr. JONES. No. As I understand by owning your private cars it enables you to give them quicker service?

Mr. CREIGH. The ownership of the private car, I have been trying to tell you, has no relation to the question that we are talking about. I am trying to tell you that the private car business has no connection with the railroad practice or tariff.

Mr. JONES. But does not the fact that you own a lot of these refrigerator cars make it so that the railroads do not use efforts to supply the cars for the other people?

Mr. CREIGH. Well, now, as you say, the man has not a very great need if that is the case.

Mr. JONES. But isn't it in its concentrated form a very great advantage for the whole business?

Mr. CREIGH. If the need is not very great then the other is not very great.

Mr. JONES. The advantage might be very great because you use them to get preferred shipments.

Mr. CREIGH. Well, but we do not.

Mr. JONES. That is the point in the statement of the Federal Trade Commission. They charge that this gives expedited service. For instance, on page 59 of the report of the Federal Trade Commission on private car lines, dated June 27, 1919, they state:

> They give expedited service to groceries, cheese, lard, glue, soap, soap powder, and other products, and in times of embargoes against such articles, enable the packer to get his shipment through to market.

It is stated that these articles could just as well be shipped in ordinary box cars instead of in refrigerator cars. But I do not know about the situation, but am seeking information.

Mr. CREIGH. This is a tremendously complicated proposition and a highly important proposition. It is all related to the transportation end of the business, which is at this time entirely within the jurisdic-

tion of the Interstate Commerce Commission. Mr. Crafts happens to be here and is one of the packer attorneys in the grocery end of the business, and he knows about the whole thing. The whole thing will work out under the proceedings now pending.

Mr. JONES. I do not know whether a court decree will be what the public will want or not. The public may want you people to do something else.

Mr. CREIGH. I have not suggested the decree. I say there is a proceeding pending before the Interstate Commerce Commission, which has control of tariffs. The grocers have made complaint along this line, that there is a preferential service. That commission is considering the matter. Months have been taken in getting evidence and arguments have been had, and all that is now thoroughly covered by law and subject to consideration in the pending case, and has no relation to the decree at all.

Mr. TEN EYCK. But you people do give the public better service through the use of your cars, which facilitates shipments and shortens the time between shipment and delivery, and you are thereby rendering the public a service, are you not?

Mr. CREIGH. I think so.

Mr. TEN EYCK. But it seems to me that if the other fellow by inability to obtain cars, and I do not say that he can obtain them, but if there is inability to obtain cars to compete with you it would be a good thing either for this committee or for the Interstate Commerce Commission to make rules and regulations, and even go so far as to force the railroads to build more cars to give them the same service you yourselves enjoy. You would be in favor of that, wouldn't you?

Mr. CREIGH. Yes.

Mr. TEN EYCK. Are you in favor of giving the other fellow the same opportunities and use of cars that you have?

Mr. CREIGH. Oh, we would be in favor of everybody having a proper service. But I do not want you to infer from that statement that I mean there is anything wrong with the present system.

Mr. TEN EYCK. No. But if we should come to the conclusion that there may be some discrimination in that matter it would be proper legislation to insist upon the railroads giving your competitors full opportunity to get cars as easily as you can get your own cars, wouldn't it?

Mr. CREIGH. Isn't that the law now?

Mr. KINCHELOE. Wouldn't it be a better order of procedure to hear one gentleman at a time? Mr. Nash is now on the stand, and I think he should be permitted to finish his statement.

The CHAIRMAN. Yes; that is the better form of procedure.

Mr. TEN EYCK. First I would like to have an answer to my question.

Mr. CREIGH. First, it is the law now, and certainly it is the desire of the packers that that should be the system. But if you will pardon me for one sentence, I do not think anything better illustrates the difficulty of the trade proposition than the paragraph read by Mr. Jones. The point is made that in times of congestion the packer will have an advantage through putting this stuff into his car. If the packer is going to do any considerable volume of business and if he can not use his own car then he is going to turn his stuff into the

freight houses and thereby add to the very congestion that is at times complained of. If you will consider the point on its merits you will find that the packers use their own cars as a means of economy to the railroads, and that such use is beneficial to the public and that it relieves congestion at terminals, which is highly beneficial to the jobbers, his competitors. I think therefore it is shown that the packers are rendering a service by using their own cars.

Mr. TEN EYCK. It is my idea not to take away from the packer the service he has, but to give to his competitor an equal service.

Mr. CREIGH. Well, I wish you would look at the subject from the standpoint of the packers, that this is an increase in efficiency, which is their motto.

Mr. ASWELL. Suppose I am a retail grocery merchant in my district and my customers need urgently and immediately a shipment of canned fruits, we will say, Under the statement made the packer could get it down to me in a day or two, and as to the ordinary wholesaler in less-than-carload lots it would take a week or two.

Mr. JONES. It would take a week or two in carload lots outside of the use of the packers' own cars.

Mr. ASWELL. All right; in the interest of my customers, which is the better, to let the packers send the goods on promptly or to let the law prohibit their use of these cars and let my customers wait?

Mr. JONES. For that particular shipment of course it would be better to let the packer ship the goods, but that tendency if carried on to the logical conclusion would put the handling of all food products in the hands of the packers. I am merely giving you the contention of the wholesale grocers on this subject.

Mr. ASWELL. Why can not the wholesale grocer do the same thing, get a refrigerator car and send the goods down there?

Mr. JONES. Perhaps he can not own a refrigerator car.

Mr. ASWELL. Well, he does not have to own them.

Mr. JONES. He has to own cars in order to get them promptly. Frequently they are not able to get such cars promptly when they do not themselves own them. And further, he would not have use for a refrigerator car but only for an ordinary car.

Mr. ASWELL. If he can not get such a car when he needs it where is the Interstate Commerce Commission? If he can not get them then they are not in existence, and something should be done to provide them.

Mr. JONES. Perhaps the demand would not be for products requiring the use of a refrigerator car, and all other business would have to wait until this refrigerator car of the packer was hauled down the line.

Mr. ASWELL. But must my customers wait and starve for 10 or 15 days?

Mr. JONES. I may be down there in another line of business and want my stuff just as much as the local grocer would want his supply, but in that case my cars would have to stand on the sidetrack and wait for the packers' refrigerator cars to go through.

Mr. KINCHELOE. Don't you think you gentlemen could settle that controversy in executive session?

Mr. ASWELL. I was seeking information.

Mr. CLARKE. I think Mr. Aswell's question was seeking information, and was a practical question, but I rather think Mr. Jones's argument was theoretical.

Mr. JONES. Well, I think as all these witnesses are here we ought to bring out all of the light we can on the subject.

Mr. KINCHELOE. Oh, I think we ought to get this evidence from the witnesses and not from the members of the committee. We can discuss it as members of the committee when we go into executive session to consider the bill.

Mr. JONES. Well, that is all right.

Mr. KINCHELOE. I would like to ask you a few questions: As one member of this committee I want to get the facts and later to draw my own conclusions. So far as I have followed your testimony here I think you are longer on opinions than you are on facts. If I understand you, you are an independent packer located at Cleveland.

Mr. NASH. Yes, sir; at Cleveland, Ohio.

Mr. KINCHELOE. Your exclusive time is taken up in the operation and manipulation of your plant?

Mr. NASH. Yes, sir; I would say in the handling of our business.

Mr. KINCHELOE. I meant in the prosecution of that business.

Mr. NASH. Yes, sir.

Mr. KINCHELOE. Have you any connection, either directly or indirectly, with the so-called Big Five packers?

Mr. NASH. No, sir.

Mr. KINCHELOE. Do you know anything personally about their business?

Mr. NASH. Only in a general way.

Mr. KINCHELOE. You know from experience in a general way, but you are not actively connected with them in business?

Mr. NASH. I meet them in competition day after day.

Mr. KINCHELOE. You said when you first began your statement that there was no effort to control prices by the Big Five packers, and that prices were not controlled in any way, and therefore that no legislation of any kind is necessary to control any part of the business of these packers?

Mr. NASH. Of the packing industry, I said.

Mr. KINCHELOE. How do you know that there is no collusion of any kind in the control of prices of products that the Big Five packers handle?

Mr. NASH. I do not know. But I do know that there is competition in the business. What they may do now or may have been doing I do not know in detail.

Mr. KINCHELOE. Not knowing anything about that personally you are not in a position to make a definite statement on that point.

Mr. NASH. I only know what has been said.

Mr. KINCHELOE. I am dealing in facts and not in theory or in general statements. I merely want to know what you know. You said you had read the report of the Federal Trade Commission?

Mr. NASH. Yes, sir.

Mr. KINCHELOE. You said a while ago that they did not give the facts in their report?

Mr. NASH. I said there were lots of inaccuracies in their report.

Mr. KINCHELOE. Especially as pertained to the Morris people. You said they stated at one place that they had made 700 per cent,

but that you did not know whether you saw that in the report of the Federal Trade Commission or in some wild newspaper article.

Mr. NASH. I do not recall just where I saw it.

Mr. KINCHELOE. You do not know anything about the operation of the stockyards in South St. Paul, do you?

Mr. NASH. No, sir; not very much. I buy there occasionally.

Mr. KINCHELOE. You have not had all of your transactions at the South St. Paul stockyards?

Mr. NASH. No, sir.

Mr. KINCHELOE. You say there is competition among the five big packers. Mr. Wells, who was here the other day and who is employed by the State of Minnesota and has no connection with any kind of packing business, being supervisor of the public stockyards there, says there is absolutely no competiiton in the buying of hogs in those yards, and never has been since he has been there. You do not know about that?

Mr. NASH. Know about what yard?

Mr. KINCHELOE. The South St. Paul stockyards.

Mr. NASH. I have bought hogs there in competition with the big packers and in competition with everybody else buying on those yards.

Mr. KINCHELOE. But you do not undertake to say from your indefinite knowledge of the transactions which occur on the South St. Paul stockyards that there is competition in buying?

Mr. NASH. I do not know anything about the competition except as I buy there.

Mr. KINCHELOE. Mr. Wells further said that when Mr. Hormel, an independent buyer, came there, and every time he came there and bought hogs, the price of hogs went up. He says it is a common occurrence that whenever Mr. Hormel is there he knew it by looking over the books, and the remark will often be made, "Mr. Hormel has been here to-day," by reason of the fact that the the price of hogs had increased. Do you know anything about that?

Mr. NASH. I do not know about that.

Mr. KINCHELOE. You do not know about that at all?

Mr. NASH. I know about other yards more than I do the South St. Paul stockyards.

Mr. KINCHELOE. What other yards do you know about except your own?

Mr. NASH. Chicago, Indianapolis, Kansas City, St. Louis.

Mr. KINCHELOE. Do you buy on those yards?

Mr. NASH. Yes, sir.

Mr. KINCHELOE. Do you know what happens there except when you do buy?

Mr. NASH. We buy there very frequently.

Mr. KINCHELOE. Except when you are buying you do not know what happens there?

Mr. NASH. Yes, sir; we have a man at Indianapolis, and we have a buyer at Chicago, and he is thoroughly familiar with market conditions in all those markets.

Mr. KINCHELOE. I am not talking about general market conditions but the alleged condition of setting the market price.

Mr. NASH. I do not believe it exists. I am in the Indianapolis market almost every day buying hogs.

Mr. KINCHELOE. I am not so much interested in your opinion as I am in the facts. I am after facts.

Mr. NASH. And I am giving you facts, the conditions as I know them. When I buy hogs there my opinion is certainly worth more than the opinion of the fellow who does not buy hogs there.

Mr. KINCHELOE. Certainly.

Mr. NASH. This fellow does not buy hogs.

Mr. KINCHELOE. Mr. Wells is at the South St. Paul stockyards in the employ of the State of Minnesota, and he says there is absolutely no competition there.

Mr. NASH. He is not a hog buyer.

Mr. KINCHELOE. He is there as supervisor of the yards and knows what they are doing.

Mr. NASH. Certainly, so far as his observation informs him.

Mr. KINCHELOE. And if he makes these statements that there is absolutely no competition there, and that every time Mr. Hormel comes there and buys hogs the price is raised, you do not dispute those statements?

Mr. NASH. No, sir; because I do not know anything about the conditions there.

Mr. ASWELL. Why isn't there competition at the South St. Paul stockyards if Hormel comes there and his buying raises the price?

Mr. KINCHELOE. When he comes there he raises the price and that makes competition. Mr. Nash, you know nothing about Mr. Wells's statement?

Mr. NASH. No, sir.

Mr. CLAGUE. Suppose you ask Mr. Nash how it is on the days when he buys hogs?

Mr. KINCHELOE. Suppose you answer that question?

Mr. NASH. I do not raise the price unless I try to buy all of the hogs on the market.

Mr. CLAGUE. I do not mean on that particular day, but how does that affect the market as compared with other days?

Mr. NASH. I am buying there right along. If the prices are too high I leave them alone.

Mr. CLARKE. Having your own business to conduct, and conducting it as a competitor with the big packers, you must, of course, try to obtain such information as you can, as any good business man would do, and must be trying to learn what the other fellow is buying?

Mr. NASH. Absolutely.

Mr. KINCHELOE. You made rather a broad statement when your statement was begun, that there was absolutely competition among the big packers all over the country.

Mr. NASH. There certainly is.

Mr. KINCHELOE. At the South St. Paul stockyards you say you do not know about that. What I am trying to get at is, what you do know, and not your opinions. I want to get it in my own feeble way, want to know what the facts are.

Mr. NASH. I will try to give them to you. I say that there is competition in the packing business. I am doing business over the country, and I know that the big packers are competing with me and with each other. As to the South St. Paul stockyards I do not

know particularly about conditions there, because it is rather an inaccessible market to me.

Mr. KINCHELOE. I am asking for your experience.

Mr. NASH. Yes, sir; and that is what I am trying to give you.

Mr. PURNELL. Do you buy the same class of stuff that the big packers buy?

Mr. NASH. Yes.

Mr. PURNELL. The statement was made by the gentleman I think Mr. Kincheloe referred to that the most of the independent packers buy an inferior grade of stock, and that therefore they did not come in direct competition with the big packers. What have you to say about that?

Mr. NASH. That is not true as far as we are concerned.

Mr. KINCHELOE. Mr. Wells's testimony was that Mr. Hormel bought 200-pound hogs principally.

Mr. PURNELL. And then as to them there was competition.

Mr. KINCHELOE. Yes; and that it raised the price of hogs when he got there.

Mr. PURNELL. And then when he bought that stuff he came in direct competition with the packers.

Mr. CLAGUE. About how many cars a year do you buy at South St. Paul?

Mr. NASH. Oh, I do not know. We have not been in the South St. Paul stockyards for several years except occasionally. We have bought there, but we go there quite rarely. If they have a lot of hogs and they look cheap we go there and buy. But it is too far off and transportation requires four or five days to get our hogs to Cleveland.

Mr. CREIGH. I wondered whether Mr. McLaughlin of Nebraska would not read from the Federal Trade Commission's report the charge that the small packers were at the sufferance of the large packers, and then ask Mr. Nash about that subject. Ask what he thinks about the Federal Trade Commission's report and conclusions on that subject. Do you recall the sentence in the report that the small independent packers live at the sufferance of the Big Five?

Mr. MCLAUGHLIN of Nebraska. I recall the statement but I do not have the page in mind.

Mr. CREIGH. I wondered if you would not be good enough to ask Mr. Nash to say something on that point.

Mr. ASWELL. Why could not Mr. Nash extend his remarks and put an explanation into the record.

Mr. NASH. At the last hearing when I was here we disagreed on that particular point. Mr. Colver, at that time chairman of the Federal Trade Commission and whom I used to know in Cleveland several years ago, was very much surprised to know that I was against the suggested legislation, the legislation aimed at the packing industry, and in speaking to me he said:

> In five years you will be out of business entirely, and in another five years the conditions in this country will be that the packer's agent will go to the retail grocer or the retail butcher and say, "Here is a package of crushed oats. If you do not take these you can not get a ham."

Then he added:

> You have been living at the sufferance of the big packers, and it is only by their good will that you are doing business at all.

I said:

I think you are crazy. I have been competing with them all my life and they can not ever put me out of business. Twenty-five years ago they might have had an opportunity, because of the inequality in freight rates, but since that time if I can buy my hogs and cattle at the same rates as the big fellow I will stay in business as long as he will.

The CHAIRMAN. You have no objection to regulation, however?

Mr. NASH. Except that hampering of business increases the cost of doing business, and I do not see that it is doing anybody any good.

The CHAIRMAN. In what way?

Mr. NASH. The consumers have been claiming that these bills, or some of them, should be enacted. The consumers as a matter of fact are not going to be benefited by any restriction of the packing industry.

The CHAIRMAN. Of course they want a square deal?

Mr. NASH. On the question of whether the producer has had a square deal, about which there has been more or less complaint, let us look at the records and see that on the average——

The CHAIRMAN (interposing). If they are having a square deal then legislation can do no harm.

Mr. NASH. Yes; but it is possible for them to get more than a square deal.

The CHAIRMAN. Point out the way.

Mr. NASH. In one of these bills opportunity is given the proposed commission to fix prices.

The CHAIRMAN. Do you say to "fix prices"?

Mr. NASH. Yes, sir; and possibly they might fix the prices at which we would have to buy our live stock.

Mr. PURNELL. I think you are mistaken about that.

Mr. NASH. I do not think so.

Mr. MCLAUGHLIN of Nebraska. There is no such provision in any bill that has ever been before this committee.

Mr. PURNELL. I think we can all venture the guess that there will be no price-fixing bill that will ever go out of this committee, and even if it got out of the committee it would not get through the House.

Mr. MCLAUGHLIN of Nebraska. You may have in mind the provision for the fixing of rates and charges of stockyards.

Mr. NASH. It does not definitely say what and it might apply to anything.

Mr. KINCHELOE. Well, let us get that section and see what it does apply to.

Mr. PURNELL. Maybe you can dig up a joker in one of these bills, and if you can we would like to know about it.

Mr. LIGHTFOOT. The provision I think Mr. Nash refers to is in the McLaughlin bill on page 23, subdivision (e) of section 25. Under the terms of that clause the commission would have power which would enable it to fix the price of any article which the packer might buy in that it prevents any registrant from taking title to any product handled by such registrant except under such conditions as may be prescribed by the rules, regulations, and orders issued under that section.

Mr. KINCHELOE. That does not say anything about prices.

Mr. LIGHTFOOT. It says the commission may forbid you to trade except under certain conditions. It says you can not take title to any product except under the rules of the commission. That would give them the power to fix prices, wouldn't it?

Mr. KINCHELOE. That is a regulatory provision. There is nothing up here in the section giving them the right to prescribe rules, regulations, and orders to fix prices.

Mr. MCLAUGHLIN of Nebraska. No; it is not talking about prices at all. It is talking about a mutual agreement that will be entered into between the commission and the packers.

Mr. NASH. What is this particular article that says we shall not trade, take title, or buy from somebody else any products except under such rules and regulations as may be prescribed?

Mr. MCLAUGHLIN of Nebraska. Do you refer to section 3, page 23?

Mr. NASH. Yes.

Mr. MCLAUGHLIN of Nebraska. It refers to all provisions of this mutual agreement entered into by those who voluntarily register with the department, and the department then offers certain advantages to those voluntarily registering, and they then agree to observe the conditions written in here.

Mr. KINCHELOE. But there is no provision written in here which undertakes to fix prices.

Mr. MCLAUGHLIN of Nebraska. Absolutely none, and it was never intended.

Mr. LIGHTFOOT. On that point, while it may not have been intended, and I do not believe you, Mr. McLaughlin, or probably the gentleman who wrote this bill in the Senate in the beginning—of which I think this is a copy, isn't it?

Mr. MCLAUGHLIN of Nebraska. Yes.

Mr. LIGHTFOOT. Probably neither you nor he intended to go that far. But nevertheless here is Congress creating a live-stock commission and vesting it with certain powers general in their terms. Under the powers you are giving to this commission one of them is that no registrant shall take title to any products handled by such registrant except under such conditions as may be prescribed in the rules, regulations and orders of the commission, and now get the point, "issued under this section."

Mr. MCLAUGHLIN of Nebraska. That does not refer to the prices they may pay.

Mr. LIGHTFOOT. But that gives such a commission unbridled power to make any limitations they may see fit to make. In other words, there is no limitation put on the powers of the commission in that respect. I am giving you my view but do not know that you will agree with me, and yet this is the thing we fear about this kind of a bill: There is no limitation put on the powers of the proposed commission, and therefore they may make any rules, regulations, and orders they may see fit to prescribe. They may prescribe in addition many things, any condition that occurs to their minds; there is no limitation whatever on the matter, and one of those conditions might be that they would say that a purchaser shall pay cost plus a reasonable profit on an article purchased from the producer.

Mr. MCLAUGHLIN of Nebraska. Oh, no.

Mr. LIGHTFOOT. They would certainly have the power whether they exercised it or not.

Mr. McLAUGHLIN of Nebraska. No, they would not have that power, because the rules, regulations, and orders can only be made for the purpose of enforcing the provisions of this bill, and there is nothing in this bill about cost plus or price fixing.

Mr. LIGHTFOOT. Let us see whether that is true or not. This bill says:

(e) No registrant shall take title to any products handled by such registrant except under such conditions as may be prescribed in the rules, regulations, and orders issued under this section.

And it says:

The commission shall administer and enforce the provisions of this section and of all rules, regulations, and orders which it may issue hereunder.

It is prescribed there that the commission may issue a rule or regulation to enforce that particular section, which includes the power to prescribe the condition upon which the registrant shall take title to anything which he may handle. In our opinion that may include the power to prescribe as one of those conditions that the registrant shall pay cost plus a reasonable profit on the products which he might buy. There is nothing in the bill anywhere that we have been able to find which would limit their right or power to do that if they decided to exercise it under the provisions of that section.

It has been our experience that whenever you create a commission and vest it with certain powers it goes ahead and exercises all the powers that the act was susceptible of giving to them by construction, and, in addition, in a great many instances they have exceeded those powers. If you create a new commission it will not be governed by what your ideas were in the framing of the bill if you employ such general language that they may deduce from it power to do some act that they may see fit to do. So we feel that there is no reason why any commission or governmental bureau should be vested with broad and unlimited powers to do something that would go that far.

Rules, regulations, and orders are referred to all the way through the bill, and there are a great many other general powers referred to. Now, for instance, may I point out in section 12, page 10, title (a):

SEC. 12. It shall be unlawful for any packer to—
(a) Engage in any unfair or unjustly discriminatory practice or device in commerce, or in any deceptive practice or device to cheat or defraud in commerce.

That is a broad general term. It does not say what is meant. The committee by this language is not indicating to the commission what it desires to prohibit in that respect, but you are giving to the proposed commission broad general powers to prevent unfair or unjustly discriminatory practices or devices in commerce.

Now let us see what that might be construed to mean. If we pay one man one price for a load of cattle in a stockyard to-day, and then later on in the evening there is a change in market conditions, and we pay another man a different price for the same class of cattle, does that constitute unjust discrimination in the yards? We do not know. But there is broad general power there prohibiting and making that thing unlawful. Or, if we buy for less than cost it might be considered unjust discrimination.

Now, then, gentlemen of the committee, this proposed commission is by this bill vested with power to make rules, regulations, and orders carrying these things into effect. Who is to determine what

is an unjust practice or device in commerce? It is this commission. They may determine any of these things to be unfair and unjust, and can by a rule or regulation issued by the commission prohibit it and make it unlawful.

What we contend and I think what Mr. Nash had in mind if I properly gathered it from his statement is this, that if you are going to regulate this particular industry in any particular respect you ought to specify what acts are to be prohibited, what the abuses are in particular terms, and make it unlawful to do any of those things. But to create a new commission and give it general powers, such as are contained in section 12, a general power undefined, so broad that it will cover every single, solitary detail in the packing industry and in the management and operation of it, that they will all come within the scope of the things that are undertaken to be prohibited in general terms and which you are delegating to this livestock commission, with power to make rules, regulations, and orders to carry those things into effect, you will see how dangerous and far-reaching it would be.

After all they will become the real legislators on this subject, because they will be different minds and will originate things they want to prohibit by rules and regulations. Under such a plan the packers would not know to-day what the law is going to be to-morrow, and it would create such confusion and invite such despotic control by bureaucratic government, that the highly organized business dealing in perishable products, the highly specialized business, would be destroyed. And, more especially, the business could not be operated on the small, narrow margin of profit now being employed.

Really, gentlemen of the committee, I think when you come to a close analysis that the same general powers contained in section 12 will carry with them necessarily the power to put in force rules and regulations that will bring the packing industry to the situation where the commission can make it pay cost plus a reasonable profit for the livestock and other things that they buy, without regard to market conditions or the law of supply and demand.

Take for instance subsection (c), if I may be permitted to refer to it—

> It shall be unlawful for any packer to engage or participate in any manner, either directly or indirectly, in the business of purchasing, manufacturing, storing, or selling foodstuffs other than livestock products, where the effect of such participation in such business may be substantially to lessen competition in or to restrain commerce or to tend to create a monopoly in commerce.

You would have power given to the proposed commission to prohibit the packer from engaging in any other lines of foodstuffs than livestock products if he desired to do so where the effect of it would be to substantially lessen competition and restrain commerce, and it is at the discretion of the proposed commission to determine when that situation arises. And what would prevent such a commission, if they should decide it should be the policy to make the industry to pay cost plus a reasonable profit, to say that unless you do that we will restrict you in the sale of or prevent you entirely from the selling of any other lines of foodstuffs outside of the products of live stock?

The power is given to them to do it. They can exercise such discretion as they see fit. You do not say in the bill when that condition arises. It is a general power which the live-stock commission themselves may exercise according to their own determination as to when the situation arises.

I wish to call your attention to the fact that this is the only provision in any bill I have ever seen offered in the Congress or anywhere else that undertakes to penalize and restrict and hamper the growth of any individual enterprise unless it was based upon an agreement in restraint of trade with some competitor. If you will notice the language of that provision you will see how far-reaching it might be. Suppose you, by reason of the superiority of your brands, or by reason of the successful handling of your business, or by reason of the popularity of your establishment, would build up a demand for foodstuffs outside of live-stock products which you are handling to the point where in the judgment of a governmental tribunal you were about to get a monopoly, or that you were restraining trade in some way, why, under this provision it could be prohibited, and they could stop you off short where you were, not only stop you from further growth but put you out of business.

Every other law that undertakes to prevent the growth of a monopoly, or a so-called monopoly, or something in restraint of trade, is predicated upon an unlawful agreement between you and some competitor that restricts trade in that respect. But I call attention to the fact that section (c) would give this proposed commission power to limit your growth, and to stop you at a certain point, and even to put you out of business entirely, thus wrecking your whole investment in all of your plants. And why? Just because they might think you have grown to the point where they feel that you are lessening competition or restraining trade.

Gentlemen of the committee, it is such general powers as that that we feel no governmental agency should be given. If such a commission should happen to be composed of men interested in any particular branch of the industry, and if they have the power to say when an industry has grown big enough, or when it is restraining trade, and it is then going to put you out of business or stop you right where you are, and you can not grow any larger, it is a pretty substantial power to give. It is a pretty serious matter to employ such broad and general language in giving power to a governmental agency as to enable that agency, by suggestion even in the language, to accomplish some other purpose or design than that which may have been really intended by those who wrote the bill.

Mr. CLARKE. Mr. Chairman, suppose you let us finish with Mr. Nash.

The CHAIRMAN. Yes; let us proceed in the regular order.

Mr. LIGHTFOOT. I beg your pardon.

Mr. MCLAUGHLIN of Nebraska. Mr. Nash, in making the statement that some of the bills here may have to do with price fixing, I ask you now is this subsection (e) on page 23 the section to which you refer of this bill?

Mr. NASH. Yes, sir; that is the one.

Mr. MCLAUGHLIN of Nebraska. I wanted to know if that is the one you had reference to as price fixing?

Mr. NASH. Yes; that is the one.

The CHAIRMAN. What other provisions are there in any of the bills that would ruin anybody or work an injustice to anybody who is engaged in a legitimate enterprise?

Mr. NASH. I spoke about the necessity under one of the bills, for all of the packers to give up their stockyard interests.

The CHAIRMAN. Why, the bill only applies to about 30 stockyards, those that handle over 150,000 head of cattle.

Mr. NASH. That would include all of the big yards and that would affect us.

The CHAIRMAN. Aren't you for fair dealing in the stockyards?

Mr. NASH. Yes, sir; absolutely.

The CHAIRMAN. You want the traders and commission men to be regulated and for everybody to be given a square deal?

Mr. NASH. I do not want to be forced to sell my stockyards stock.

The CHAIRMAN. Oh, this does not compel that of the stockyards at all. You are speaking about the decree?

Mr. NASH. Oh, no. We are not in the decree. This applies to packers both large and small, one of these bills does, and says that they must all get rid of their stock in stockyards that handle over a certain amount of stock.

Mr. VOIGT. Where is that provision?

The CHAIRMAN. You are speaking of the McLaughlin bill, are you?

Mr. NASH. I do not know as to that, but it is one of the bills.

Mr. VOIGT. Is it section 13 of the McLaughlin bill?

Mr. CLARKE. Yes; on page 11.

Mr. VOIGT. You will notice there at line 15, page 11, of the McLaughlin bill, it is provided that:

> No packer shall own any interest, etc., in a stockyard unless the commission shall determine that such ownership or control, etc., is not in violation of this act.

Mr. NASH. They may decide that it is and they may decide that it is not.

Mr. VOIGT. Oh, but you can not assume that it is going to be an idiotic commission. I assume that if there is a commission or any other agency it is going to use reasonable judgment.

Mr. MCLAUGHLIN of Nebraska. At least to have horse sense.

Mr. CLARKE. I say that the operators of the income tax law were about as idiotic a crowd as I ever heard of.

Mr. NASH. I do not see why such language should be used at all. After I have put my good money in a stockyards, and have done my best to develop them, why ought I to be asked to sell my stock?

Mr. VOIGT. By reason of the fact that the packer controls the stockyards——

Mr. NASH (interposing). But we do not own the stockyards.

Mr. VOIGT. If you own the stock of a stockyards company you are controller of the stockyards.

Mr. NASH. No; we are not unless we own 51 per cent.

Mr. VOIGT. Well, you and the others together.

Mr. NASH. Well, as to the others I do not know about that. There is no possible way I know of whereby we could combine to control those stockyards. Our interest is small.

Mr. VOIGT. Wait a minute. If you and a lot of others own stock in a corporation which controls stockyards, then you collectively own the stockyards?

Mr. NASH. Sure, the majority of the owners do.

Mr. VOIGT. Then you packers collectively would own the stockyards, and you may thereby have an advantage.

Mr. NASH. What are the advantages?

Mr. VOIGT. The Federal Trade Commission says the packers have many advantages that outsiders have not got.

Mr. NASH. Well, it may occur somewhere that I do not know about, but it does not occur in our yards.

Mr. VOIGT. If you can prove to any regulating agency that there is no unfair practice, I would not be afraid of an order being issued by the commission.

Mr. NASH. The interest of the packer is to build up the stockyards, to make it of advantage to him as the owner of stock. That is what we are interested in in the Cleveland yards, to boost the yards, get bigger receipts, and get more stock there. That is why we are interested there; that is a part of our business.

Mr. MCLAUGHLIN of Nebraska. There seem to have been some practices in the South St. Paul stockyards that needed regulation, though there may not be in yours.

Mr. NASH. I do not think that a bad step in any one industry should condemn the whole industry. I do not know anything about the South St. Paul stockyards, but if any trouble exists there I do not think it necessarily exists all over the country.

Mr. MCLAUGHLIN of Nebrasksa. No; but if it exists at several places and can be corrected without injury to you, why not have it done?

Mr. KINCHELOE. If it exists somewhere else it will not bother you if it is corrected.

Mr. NASH. I am afraid they will tell us to get rid of our stock. They have the power under that provision, and it would be up to them to act. I do not think they should have the right to do that. I do not see anything illegitimate about a packer owning stock in a stockyards.

Mr. MCLAUGHLIN of Nebraska. You can not assume that a disinterested commission, if appointed by the President, will go out there with the sole purpose of destroying an industry.

Mr. NASH. I do not know, I am sure.

Mr. KINCHELOE. You might just as well say that the Interstate Commerce Commission, created for the purpose of controlling railroads, is intending to destroy the railroads. I think that would be a far-fetched idea, to say the least.

Mr. NASH. Well, it gives to the commission too big powers.

Mr. KINCHELOE. If they do not have some powers they can not regulate the matter.

Mr. NASH. I do not see the reason for that.

Mr. KINCHELOE. There is a debatable point as to the question as to whether you may give them too much power. But to go on the hypothesis that the commission is going to abuse its power and will go there for the purpose of destroying the business is not a point that I think people could differ about.

Mr. TEN EYCK. Who corrected the abuse in private car ownership that existed in the past?

Mr. NASH. I do not think there was an abuse in private car ownership, but the Interstate Commerce Commission has the power to fix just rates.

Mr. TEN EYCK. The Interstate Commerce Commission did it some time ago.

Mr. NASH. Yes, sir; it did.

Mr. TEN EYCK. Along that line let me observe that the innocent, law-abiding citizen is not afraid of the policeman.

Mr. NASH. No, sir.

Mr. TEN EYCK. He really wants him.

Mr. NASH. Yes, sir.

Mr. TEN EYCK. If we do not go beyond the point of doing what is beneficial—that is, if we do not do anything hurtful to trade—regulations of that kind would be good, would they not?

Mr. NASH. There may be good commissions, but I do not think the Federal Trade Commission has done our business any good. That is one commission that did not do any good for us. We are afraid of commissions if they are going to be like the Federal Trade Commission.

Mr. VOIGT. Do you claim the Federal Trade Commission has made an untruthful report?

Mr. NASH. Inferentially; yes, sir. The inferences they draw are unjust and unfair.

Mr. VOIGT. In what respect?

Mr. NASH. That I can not remember, but there were plenty, plenty of unjust remarks made in that report.

Mr. VOIGT. What unjust remarks did the Federal Trade Commission make about your individual business?

Mr. NASH. Nothing at all. They never came to see us.

Mr. VOIGT. You are not complaining so far as you personally are concerned?

Mr. NASH. No; but I am a part of the packing industry. If the industry is hurt, I am hurt.

Mr. VOIGT. The report of the Federal Trade Commission is aimed chiefly at the Big Five.

Mr. NASH. I know it is. They claim to be very fond of the independent packer.

Mr. VOIGT. Will you state specifically how that report has hurt your business?

Mr. NASH. Yes. It has affected our foreign trade tremendously and the standing in which we were held abroad. All of England thinks that the packers are robbers, are getting rich, are making a lot of money, and they won't believe anything else, and it has affected our trade very much; all our foreign trade has been affected.

Mr. VOIGT. You mean your foreign trade has fallen off?

Mr. NASH. Yes. Of course, there are other reasons for it at this time, but that report of the Federal Trade Commission was taken over to England, and all over the world, I guess, and was very detrimental in my opinion to the packing industry in this country and to agriculture generally.

Mr. VOIGT. The fact that you can not sell any of your products abroad is due to other causes than this report?

Mr. NASH. Right now of course that is true. But this report of the Federal Trade Commission has been out some time. We have

been prejudiced all over the world, the packers have been prejudiced in the eyes of the people of the world by reason of that report.

Mr. VOIGT. If the report of the Federal Trade Commission is true and has had the effect of hurting the packing industry then do you claim that the report should have been withheld?

Mr. NASH. If it were true, no; it should not have been withheld.

Mr. VOIGT. Are you prepared to say it is not true?

Mr. NASH. That is a pretty broad question. I am prepared to say that there are plenty of things in it that are not true.

Mr. VOIGT. Can you point out specifically which things in it are not true?

Mr. NASH. No; but I will be very glad to do so if I am given the opportunity to look over the report. I will point out this afternoon what I think are untrue remarks contained in that statement, if you wish.

Mr. VOIGT. It is claimed by the Federal Trade Commission that there is an agreement among the Big Five for the purchase of live stock. You claim that that part of their report is untrue?

Mr. NASH. No; I do not know anything about the operations of the Big Five among themselves.

Mr. CREIGH. Let me say, Mr. Voigt, for the Cudahy people, that that certainly is untrue.

Mr. VOIGT. But I am asking this witness at this time.

Mr. CREIGH. I beg your pardon.

Mr. NASH. I do not know about that.

Mr. VOIGT. That is the chief point in my opinion in the report of the Federal Trade Commission. You say you do not know anything about that point?

Mr. NASH. The only thing I can say about that is, that if they are in collusion they are not going to let me in on it.

Mr. VOIGT. You make the sweeping charge that the report of the Federal Trade Commission is untrue.

Mr. NASH. I do.

Mr. VOIGT. That is the chief point in the report of the Federal Trade Commission, and yet you say you do not know anything about that?

Mr. NASH. Well, go to the Big Five for information on that point. Why should you ask me?

Mr. VOIGT. I am asking you now because you are testifying and you claim that this report contains untrue statements.

Mr. NASH. Yes; but it deals with far more matters than that.

Mr. VOIGT. In my judgment that is the chief thing in the report of the Federal Trade Commission, that those gentlemen are in collusion.

Mr. NASH. All right. There are books and reams of stuff that do not deal with the Big Five.

Mr. VOIGT. It deals with other practices of the Big Five.

Mr. NASH. Yes. Some of those I am prepared to show are untrue that I know about. But I do not know about that matter.

Mr. VOIGT. Now, then, is there any practice that the Federal Trade Commission has accused the Big Five of that is unwarranted by the facts, in your judgment?

Mr. NASH. Yes; I think there are many.

Mr. VOIGT. Will you state them specifically?

Mr. NASH. I do not remember them now. I am going to have to refresh my memory by reading the report. I have not read it since it came out.

Mr. VOIGT. Then you can not testify before this committee.

Mr. NASH. They have allowed me an opportunity to read the report of the Federal Trade Commission before I make any more statements about it.

Mr. VOIGT. Well, then, you are in a mental frame now where you can not intelligently discuss the subject.

Mr. NASH. I do not think I can give specific points now out of that report, or immediately. I would have to look over the report.

Mr. VOIGT. You are not in collusion with anybody in your business, I take it?

Mr. NASH. No, sir.

Mr. VOIGT. Do you object to any law which will restrain others from acting in collusion in the meat packing industry?

Mr. NASH. Well, now, I do not want anybody to be in collusion if it is going to be detrimental to the business.

Mr. VOIGT. I asked you a fair question.

Mr. NASH. I will say that I am not in favor of collusion.

Mr. VOIGT. Would you object to a law that would prevent it?

Mr. NASH. No.

Mr. VOIGT. Would you object to any law that would make the Big Five or any other packer do business on the square?

Mr. NASH. No, sir. I think we have such laws now. The Federal Trade Commission is already a body that is supposed to do that, and we have laws to prevent unfair practices and acts in restraint of trade.

Mr. VOIGT. If the present laws are inadequate to prevent collusion would you object to the enactment of additional laws?

Mr. NASH. No, sir.

Mr. VOIGT. Then you are not altogether opposed to legislation to regulate the packers?

Mr. NASH. I am opposed to legislation to regulate the packers until any evil that is alleged to exist has been explained and brought out. I claim that evils in the packing business have been guessed at and have been theorized about, but nobody has ever pointed them out. They have been guessing.

Mr. VOIGT. The Federal Trade Commission has pointed out very definitely that the Big Five packers are in collusion. You say you do not know anything about that at all?

Mr. NASH. At the time the Federal Trade Commission was making an investigation of the packing industry they never came to us as an old firm of independent packers. They never asked me for any testimony.

Mr. VOIGT. They do not charge you with anything, either.

Mr. NASH. No; but they might have come and gotten my views. I am supposed to know something about the packing business.

Mr. VOIGT. Suppose they had come to you and asked you for your views as to whether the Big Five packers were in collusion?

Mr. NASH. I would know as much about that as anybody else outside would know.

Mr. MCLAUGHLIN of Nebraska. How about their books?

Mr. NASH. Well, that is the place to get it. But they went around and asked people who had lost money and did not come to many independent packers who had no connection whatever with the Big Five. It was an ex parte investigation, and the whole industry was not asked to give their views at all.

Mr. VOIGT. When they investigated the Big Five, didn't they assume the right course when they looked at their books?

Mr. NASH. Yes, sir; that is right.

Mr. VOIGT. If they had come to you, you could not have given them any definite information?

Mr. NASH. No, sir; only general information as to competition, and whether we competed with the Big Five at places where we did compete them. We could give them information that anybody else could give them who had been for years in the business. We buy our livestock in competition with them and sell our products in competition with them, and we could have told them about that.

Mr. VOIGT. I think that feature of it is covered by the report.

Mr. NASH. I do not know, but it did not strike me that it was.

Mr. KINCHELOE. I am very much interested in Mr. Nash having an opportunity to go over the report of the Federal Trade Commission and that he should point out specifically the things that are absolute falsehoods, if they are in fact, and I want to know about them.

Mr. NASH. I will be glad to do that.

The CHAIRMAN. You object to section 13 of this bill requiring the packers to dispose of their interests in the stockyards. In your opinion, would adequate stockyards facilities be provided for in many instances? I have reference to the smaller packers.

Mr. NASH. Would what?

The CHAIRMAN. Would adequate stockyards facilities be furnished if the big packers got out? I have reference to the smaller places.

Mr. NASH. Why, in the most of the smaller places they have adequate stockyards.

The CHAIRMAN. The smaller packers have them at their own plants?

Mr. NASH. Yes, sir; at the smaller places they are at their own plants, if they have them, and they would not change that position.

The CHAIRMAN. I am speaking of the smaller places, such as we have in Iowa, where, for instance, there is only one or two packers.

Mr. NASH. I do not think the fact that the packers got out of the stockyards in the big centers would affect the smaller points at all.

The CHAIRMAN. This is a general provision to require all of them.

Mr. NASH. Yes, sir; those having 150,000 head of cattle.

The CHAIRMAN. No; section 13 does not place that limit on it.

Mr. NASH. I believe not.

Mr. PURNELL. Have you discovered any discrimination against you in buying in yards where you have no interest?

Mr. NASH. No; not at all.

Mr. KINCHELOE. Do you think, as a general proposition, it is of benefit to the packer in dollars and cents to own an interest in stockyards?

Mr. NASH. Yes; I do. And it is a good thing for the industry for him to own it, because he is interested in building up that yard.

Here is the position that we take as owners of the Cleveland Stockyards stock. We want to build that yard up so that we do not have to go to Indianapolis, or to Chicago, or to St. Louis, or to Omaha, or to Kansas City for our stock. We want to buy them at home.

Mr. KINCHELOE. Where does it benefit Swift & Co. to have an interest in your stockyards?

Mr. NASH. They have a plant there.

Mr. KINCHELOE. How much of the stock do they own?

Mr. NASH. They own a little less than 10 per cent; about 8 per cent.

Mr. KINCHELOE. Do any other owners of the Swift company own any of the stock in your yards?

Mr. NASH. Any what?

Mr. KINCHELOE. Do any other owners of the Swift Packing Co. own any stock in the Cleveland Stockyards?

Mr. NASH. I do not know.

The CHAIRMAN. Are you opposed to regulations regulating the various yards to see that everybody has a square deal?

Mr. NASH. No, sir.

The CHAIRMAN. Any other questions, gentlemen of the committee?

Mr. TEN EYCK. I would like to ask a question or two. Do you prohibit any purchaser of live stock from doing business on your yards? I mean, do you prohibit any producer of live stock from selling on your stockyards?

Mr. NASH. No, sir.

Mr. TEN EYCK. Can anyone come in from the outside and purchase?

Mr. NASH. Anybody at all. It is absolutely an open market.

Mr. TEN EYCK. In other words, you have not a board there that one has to be a member of before he can deal in the yards?

Mr. NASH. Well, I do not know what you mean by a purchaser of stock. It is not usual for a producer of stock to sell his own stock in the yards. It is customary for a producer to sell to a so-called jobber, who collects a carload in the country and ships it to the yards.

Mr. TEN EYCK. I understand that; but can a producer ship his stock in there in carload lots?

Mr. NASH. Yes, sir.

Mr. TEN EYCK. What would be the procedure?

Mr. NASH. The procedure would be for him to collect a carload of live stock and ship it in to some commission man, or consign it to some commission men, and he either comes with the stock or does not, and turns it over to the commission man to sell for him.

Mr. TEN EYCK. In other words, he could not sell it himself? It would have to go through a commission man?

Mr. NASH. Yes, sir. I do not think he could sell it himself. It would probably go through a commission man. But what has happened recently is that combinations of producers have formed associations and have representatives in the yards.

Mr. TEN EYCK. But there might be individuals who might send in a carload to your yards?

Mr. NASH. Direct to a plant but not to the stockyards.

Mr. TEN EYCK. Yes; to the stockyards.

Mr. NASH. To us at the stockyards?

Mr. TEN EYCK. To the stockyards for sale, and to make returns for the stock.

Mr. NASH. It would be handled by a commission man in the yards.

Mr. TEN EYCK. He would have to turn that over to a commission man in the yards?

Mr. NASH. Yes, sir.

Mr. TEN EYCK. And pay him a commission?

Mr. NASH. Yes, sir.

Mr. CLARKE. What is that commission ordinarily?

Mr. NASH. I do not remember.

Mr. CLARKE. Is it on a percentage basis?

Mr. NASH. No, sir; I think it is so much a car, $10 or $12 for double-deck cars or something of that sort. It is a little different for hogs than for cattle. It is approximately equal at all yards in the country. I think the charges in all yards in the country are approximately alike.

Mr. CLARKE. Do those commission men all own stock in your yards?

Mr. NASH. Oh, no.

Mr. CLARKE. What privilege do they buy or own, or what do they pay your company for operating there?

Mr. NASH. They do not pay anything, because we are glad to have them come, for the reason that the more commission men who operate there the more stock that is likely to come there.

Mr. CLARKE. They pay no privilege for operating in the yards?

Mr. NASH. No, sir.

Mr. CLARKE. They pay no percentage for cleaning up the yards?

Mr. NASH. No, sir. It has nothing to do with them at all.

Mr. CLARKE. Who pays for the running of your yards? Where do you get the money to take care of that expense?

Mr. NASH. Every yard charges a yardage per head on the stock received. That and the feed that they sell to the owners of the stock through the commission men makes the profits of the yards.

Mr. KINCHELOE. You do charge commission men a yardage?

Mr. NASH. No; he charges that to the shipper. The shipper pays any fee that the commission man pays for the stock.

Mr. KINCHELOE. You charge the commission man a yardage?

Mr. NASH. No; the shipper pays everything. He pays the commission man for the yardage fees and everything else.

Mr. KINCHELOE. Sure, it eventually comes out of the shipper. I wanted to know how it was done.

Mr. NASH. The commission man charges the shipper and the yard collects the yardage.

Mr. TEN EYCK. Who has charge of the weighing?

Mr. NASH. It is in charge of the public weighmasters.

Mr. TEN EYCK. That is, a man employed by the city of Cleveland?

Mr. NASH. No.

Mr. TEN EYCK. What do you call them?

Mr. NASH. They are certified weighmasters.

Mr. TEN EYCK. Who pays their salaries?

Mr. NASH. The stockyards company.

Mr. KINCHELOE. Who employs them?

Mr. NASH. The stockyards company.

Mr. KINCHELOE. Then they are not public weighmasters.

Mr. NASH. They are called public weighmasters, because they are ertified.

Mr. TEN EYCK. Who weighs the grain that is fed to stock?

Mr. NASH. I believe the stockyards company.

Mr. TEN EYCK. Are they in the grain business themselves, and do they sell grain and other feed?

Mr. NASH. They buy grain by the carload and sell it to the commission man for the account of the shipper. The commission man buys it for his shipper's account when he feeds his stock.

Mr. TEN EYCK. Does he get a commission on the transaction as to grain?

Mr. NASH. Oh, no.

Mr. TEN EYCK. In other words, he does that for the shipper?

Mr. NASH. Yes, sir.

Mr. TEN EYCK. The commission that he gets is for the selling of the cattle?

Mr. NASH. Yes, sir.

Mr. CLAGUE. Who fixes the price of hay and grain that you sell, that the stockyards company sells?

Mr. NASH. The stockyards company.

Mr. PURNELL. Does the State of Ohio exercise any supervision over your yards?

Mr. NASH. I think not. I never heard of it if it does.

Mr. TEN EYCK. Do you sell your feed, grain, and hay at a reasonable profit?

Mr. NASH. Well, I do not know what the prices are now. I think they are fairly reasonable prices, however.

Mr. TEN EYCK. But you do figure on making some money out of that toward the running of the yards?

Mr. NASH. Oh, yes; they get a profit on it.

Mr. CLARKE. What are the average dividends one year after another from your stockyards?

Mr. NASH. That are paid by our stockyards?

Mr. CLARKE. Yes.

Mr. NASH. Ten per cent.

The CHAIRMAN. To what other provisions of the bills do you object?

Mr. NASH. I object to the general terms, to the giving of such general powers to a commission to make their own rules and regulations and to interpret them. I think they might be very embarrassing to the business, unnecessarily so.

The CHAIRMAN. Somebody must make rules and regulations, if there are to be rules and regulations.

Mr. NASH. I am not for any regulations.

The CHAIRMAN. You are opposed to regulation?

Mr. NASH. Yes, sir.

The CHAIRMAN. Can we have assurances of fair practices without regulations and somebody with the power to enforce them?

Mr. NASH. I think we can. I think we can have the assurance of fair practices in the business without specializing in legislation against one business. Unfair practices in any other business, if there are such, are just as bad as in the packing business.

The CHAIRMAN. Don't you think there is enough in the report of the Federal Trade Commission to warrant a suspicion that legisla-

tion should be enacted to correct some of the evils that exist, if they do exist, and if they do not exist I will say that there is no harm done.

Mr. NASH. Except this tremendous power to be given to one, two, or three men, who might be prejudiced before they go on the commission or become prejudiced after they go on. It is an awful power to give a commission over an industry for the correction of evils that are alleged but that have never been proven.

The CHAIRMAN. Of course the packers are to have their day in court in the case of any commission that might be set up. There is no effort being made to deprive anyone of his rights, and it could not be done if it was undertaken.

Mr. NASH. As I was saying a while ago, it seems to me in the absence of proof that the packers have not been fair to the producers or the consumers, it is not necessary to have any such legislation. I am assuming, and I think I am correct in stating that the beginning of the desire for packer legislation came from the producers, who felt that they had not been used right for a long period of years. They have felt that they did not get enough for their cattle or sheep or hogs. That may be true, for the producer has not profited as well as he would like. But the records of the packers show that they have not gotten it. In any business where the profit has proven to be so small I claim it is dangerous to harress that business with further restrictions. It has always operated on a narrow margin of profit. If we have not paid enough for the stock to satisfy the producer it has been because we could not sell the stock high enough to pay any more.

The CHAIRMAN. It is a matter that affects consumers as much as producers. The question is if there are evil practices, should they be corrected?

Mr. NASH. I do not believe there are evil practices. I think the idea that they exist has been tremendously exaggerated.

Mr. PURNELL. How can you account for the wide difference between the price paid to the producer and the price paid by the consumer for the same product?

Mr. NASH. Why, yes; I think I can.

Mr. PURNELL. Who is responsible for that wide margin?

Mr. NASH. It is rather a big question, but the biggest part of that difference is that the consumptive demand is restricted to a very small percentage of the product handled. The concentrated demand is a very small portion. I can give you a little illustration of why the price of lamb chops is so high. The other day in Cleveland a butcher, who has a fancy trade, told me when I was in his shop:

> I am selling this lamb stew for a nickel a pound. I can not get anybody to buy it. Everybody wants lamb chops.

Now, he paid more than a nickel a pound for that lamb-stew meat, and the packer in fact paid more than a nickel a pound for the live lamb. Yet a certain percentage of the carcass, quite a large percentage of the carcass, the butcher sells for a nickel a pound, and that is the reason he has to get 60 or 70 or 80 cents a pound for lamb chops. There are only a few chops in a lamb, while there is a lot of breast, and shank and shoulder and neck, and a butcher catering to a fancy trade can not sell that stuff anywhere near what he paid for

it. The spread between the fancy cuts and the other cuts is entirely too much.

Mr. PURNELL. Your idea is that it is because of the extravagant taste of the public?

Mr. NASH. Yes, sir. And I think the telephone and delivery system affects the cost, too. We do not go to market any more and take our stuff home, but there is a good deal of marketing over the phone, and the goods must be delivered at considerable expense; and I think this extravagant demand for the fancy cuts, leaving little or no demand for the other cuts, adds very greatly to the price of lamb chops.

The CHAIRMAN. Can you give me a fair idea of what should be the profit of the retail dealer; what is a fair profit?

Mr. NASH. About 25 per cent.

The CHAIRMAN. About what percentage is charged now?

Mr. NASH. I have never seen many retailers get rich in the meat business. I do not think they average much more than 25 per cent over cost.

The CHAIRMAN. The prices charged would indicate that there are great profits to the retailer.

Mr. NASH. I think the retailers have probably been doing better under higher prices than they did under low prices, because when you figure on his percentage and stuff gets to be worth 35 cents or 40 cents wholesale, and he adds his percentage, I think the margin is widened out.

The CHAIRMAN. And evidently a good many people have engaged in profiteering.

Mr. NASH. That is the reason for the wide spread. The packer does not get it. We do not get it.

The CHAIRMAN. About what is the spread between the consumer's price and the packer's price?

Mr. NASH. Well, that varies on different things. We know what our spread is.

Mr. TEN EYCK. What is your spread?

Mr. NASH. Well, we did not make any money last year. I am speaking now of our company; we did nothing last year, and we are behind so far this year.

The CHAIRMAN. We are speaking of net profits.

Mr. NASH. We made no net profit last year at all, or a very, very small amount. So far this year we have made no profit. There is no spread; we are handling stuff for nothing. In normal years we made 2 cents on every dollar of sales.

The CHAIRMAN. What is the spread between the purchase price and the selling price?

Mr. NASH. Well, there is a certain amount in each animal that you buy that is waste.

The CHAIRMAN. If you pay $10 for live weight—and what is the average of the dead weight?

Mr. NASH. Well, that is a very difficult matter. Take hogs; suppose we are paying $10 a hundred for hogs and they cost dressed, net, 13 cents a pound. For the last two years out of that net dressed carcass at 13 cents a pound we have not made a penny.

The CHAIRMAN. What does it sell for on an average?

Mr. NASH. It just sells for the cost of doing business.

The CHAIRMAN. About how much is that?

Mr. NASH. I do not know whether I have ever just figured that in the spread.

The CHAIRMAN. Well, if it costs 10 cents for the live hog there is the spread between 10 cents and 13 cents to cover the shrinkage.

Mr. NASH. There is an average shrinkage in dressing of 25 per cent. That leaves 75 per cent out of every 100 pounds we buy, and of that 75 pounds there is about 15 per cent to come off for feet, head, and other things, leaving about 60 per cent of prime cuts, lard, shoulders, etc., out of the original 100 pounds for the live hog.

The CHAIRMAN. The shrinkage would be what?

Mr. NASH. That would be 25 per cent, which would give us the dressed carcass.

The CHAIRMAN. That is $2.50?

Mr. NASH. Less the cost of doing business.

The CHAIRMAN. The other 50 cents represents the cost of doing business.

Mr. HOWARD R. SMITH. You will find that that is not quite right. You can not take off just 25 per cent for the killed animal. If you divide the 75 of it down it would give you 33 cents. The spread increases as you go up.

The CHAIRMAN. I understood you to say that that represents shrinkage and cost of killing.

Mr. NASH. Yes, sir.

The CHAIRMAN. What is the cost of killing?

Mr. NASH. That will vary. Do you want the gross spread or the net spread?

The CHAIRMAN. Either way. The profit represents the net spread. What is the gross spread?

Mr. SMITH. What they try to make is 15 per cent for the gross spread. But I think the gross spread does not run over around 12 per cent. I think everybody in the packing business is losing money to-day. You have to have 15 per cent gross spread if you want to make any money.

Mr. NASH. I do not know about the spreads, but I know I am not making any money.

Mr. PURNELL. What do you charge up to cost of production?

Mr. NASH. Interest, taxes, depreciation, labor; anything that anybody else charges in any business.

Mr. PURNELL. Well, the fact that somebody else might charge up income tax may not be warranted.

Mr. NASH. Well, we do not charge up anything that is not proper and that other businesses do not charge.

Mr. TEN EYCK. Do you know what percentage it costs you on the actual cost of the products you produce to operate your company? What is your gross percenatge cost?

Mr. NASH. Approximately 13 to 15 per cent.

Mr. TEN EYCK. That is your actual cost for the product, from 13 to 15 per cent, and that takes care of the entire overhead, cost of operation and everything else?

Mr. NASH. Yes, sir. There is no other business that is run on as small a spread.

Mr. PURNELL. That is practically the same amount that the big packers charge.

Mr. NASH. There can not be much difference if they pay the same price for the live animal.

Mr. PURNELL. But they can do business at a smaller cost.

Mr. NASH. I do not see why.

Mr. PURNELL. They have a larger concern and less overhead.

Mr. NASH. The larger the concern does not mean the less the overhead.

Mr. PURNELL. In proportion to the business, I mean.

Mr. NASH. I do not think so. I have never thought that the big packer can do business as cheaply as I can.

Mr. PURNELL. I do not know, but am asking for information.

Mr. NASH. I do not know their costs, but I figure that they have a pretty big overhead.

Mr. MCLAUGHLIN of Nebraska. On what basis do you figure that their overhead is greater than yours?

Mr. NASH. Well, wherever I come in contact with them they have big plants, where they are not doing as big a business as we are, and they have big selling costs, and big salaries, and we do not pay big salaries.

Mr. MCLAUGHLIN of Nebraska. How about per unit?

Mr. NASH. We are not asking any favors of the big packer at all. We can do business just as cheaply as he can.

The CHAIRMAN. What is the name of your firm?

Mr. NASH. The Cleveland Provision Co., Cleveland, Ohio. We handle about 500,000 or 600,000 hogs a year and about 75,000 cattle a year.

Mr. PURNELL. Do you have any trouble getting stock when the big packers are in the market and care to buy?

Mr. NASH. If they are eager to buy and put the price up, we get in on the same basis. They can not buy them all. If they do buy them all they get the price out of line so that there is a loss in them. We do not have any trouble getting our cattle and hogs, have not had in the 25 years I have been in the business; with this one exception, of this gentleman you spoke of at South St. Paul, I have never known any market in the country in all my existence as a packer where there was any inability on the part of an independent packer to get in. That is the only market I ever heard of where there was not a free chance to everybody.

Mr. KINCHELOE. Mr. Wells did not testify that there was not a free chance there for everybody. I was going on the idea that there was a free chance at all times. My understanding was that Mr. Wells said there was absolutely no competition on that market except when Hormel came down there and bought a lot of hogs and they put the price up.

Mr. NASH. I would not call that a fair chance.

Mr. KINCHELOE. Why do you call that not a fair chance?

Mr. NASH. If they stuck the price up on him when he wanted hogs and jumped them down when he went out.

Mr. KINCHELOE. They did not stick the price up, but he came down and raised the price and the other fellows had to pay more, too. That was Mr. Wells's idea.

The CHAIRMAN. I would like to know what is meant by "l. c. l."

Mr. NASH. Less than carload lots.

The CHAIRMAN. Do you pay the full carload rate?

Mr. NASH. If we ship a full car we do.
The CHAIRMAN. If you ship a part of a car how is it then?
Mr. NASH. L. c. l. rate.
The CHAIRMAN. What is that?
Mr. NASH. Less than carload lot rates.
The CHAIRMAN. To what extent do they differ, carload and less-than-carload rates; and are there three classes?
Mr. NASH. No, sir; only two.
The CHAIRMAN. A carload rate and a less-than-carload rate and a local rate.
Mr. NASH. No, sir; a local rate is a less-than-carload rate.
The CHAIRMAN. The local rate is the same as less-than-carload rate?
Mr. NASH. There are two kinds of rates, carload lots and less-than-carload lots. If we ship goods in any car but our own, or in any other way than the carload minimum, which is established, we have to pay l. c. l. rates.
The CHAIRMAN. What is the requirement as to a carload, the minimum, how many pounds?
Mr. NASH. I think about 16,000 pounds in these peddler cars.
The CHAIRMAN. Is the rate on those 16,000 pounds the same as to an outsider shipping, say, 200 pounds?
Mr. NASH. No, sir.
The CHAIRMAN. Two hundred pounds would go at the local rate?
Mr. NASH. Yes, sir.
The CHAIRMAN. We have three rates?
Mr. NASH. No, sir; the local rate and the less-than-carload rate is the same.
The CHAIRMAN. I thought you said there were three rates.
Mr. NASH. No, sir; I said there were two kinds of rates, the carload rate and the less-than-carload rate.
The CHAIRMAN. Sixteen thousand pounds would make it the carload rate?
Mr. NASH. Yes, sir.
The CHAIRMAN. Is it the same as on a less amount?
Mr. NASH. No, sir; there is a minimum weight established for certain products.
The CHAIRMAN. What is the minimum?
Mr. NASH. I do not remember but it varies on certain products.
The CHAIRMAN. Will you insert that in the record?
Mr. NASH. From 12,000 to 16,000 pounds is the minimum. If you have 12,000 or 16,000 pounds in a car, whatever the minimum is, you get the minimum carload rate. But if you have 8,000 pounds in a car you pay the less-than-carload rate.
Mr. KINCHELOE. Do you pay less in proportion?
Mr. NASH. No; you pay the less-than-carload rate, which is higher than the carload rate.
Mr. KINCHELOE. The L. C. L. rate is higher?
Mr. NASH. Yes, sir.
The CHAIRMAN. Your carload rate is, say, 10 cents?
Mr. NASH. Yes, sir.
The CHAIRMAN. And your less than carload rate is 15 cents?
Mr. NASH. Yes, sir.

The CHAIRMAN. That means a certain volume of business or a certain number of pounds?

Mr. NASH. It means what?

The CHAIRMAN. A certain volume of freight. You would have to have a certain number of pounds of freight in order for them to assign to you a car.

Mr. NASH. You would have to have a certain number of pounds to get the carload rate; yes. That is, a certain minimum, 16,000 pounds, we will say. You have to have that minimum.

The CHAIRMAN. Do we understand that the rate is the same to all persons, whether large or small in volume?

Mr. NASH. It is the same to all. If you have less than carload in weight everybody pays the less-than-carload rate.

The CHAIRMAN. You have to have a certain amount of business in order to have a car assigned to you, don't you?

Mr. NASH. No; I do not think so.

Mr. KINCHELOE. The smaller the amount of freight the more you pay in proportion?

Mr. NASH. There are only two classes of rates.

Mr. KINCHELOE. Suppose the minimum is 12,000 pounds, and you have that much, you get the carload rate?

Mr. NASH. Yes, sir.

Mr. KINCHELOE. Suppose I want to ship in that car only 8,000 pounds.

Mr. NASH. All right.

Mr. KINCHELOE. And suppose you had some stuff you wanted to ship, say 5,000 pounds, do you get it as cheap as I do?

Mr. NASH. In the same car?

Mr. KINCHELOE. I do not suppose we would ship it in the same car.

Mr. NASH. If you ship less than 16,000 pounds and I ship less than 16,000 pounds it makes no difference how we ship it we both pay the same rate.

Mr. KINCHELOE. Regardless of the amount shipped?

Mr. CREIGH. It is the same rate per hundred pounds.

Mr. KINCHELOE. It is the same rate per hundred pounds for less than a carload?

Mr. NASH. Yes, sir. There is no difference between shipping 500 pounds and 100 pounds.

Mr. KINCHELOE. It is the same rate per pound?

Mr. NASH. Yes, sir.

The CHAIRMAN. If you load a car with 12,000 pounds do you pay the rate to destination?

Mr. NASH. Yes, sir.

The CHAIRMAN. Will they stop the car for you and let you unload it along the line?

Mr. NASH. Yes, sir; they do give those privileges and charge so much extra. You pay a certain rate for the stop-off privilege, say, at two or three towns en route. It is so much for each stop.

The CHAIRMAN. Can you supply the record with that rate?

Mr. NASH. No, sir; I can not.

The CHAIRMAN. What is the charge for stopping, about what? It used to be $2 for each stop.

Mr. NASH. It used to be that but it is more now. If my memory is correct, it is at least $5 a stop.

Mr. CLAGUE. Is that regulated by the Interstate Commerce Commission?

Mr. NASH. I assume so. It is a railroad charge.

The CHAIRMAN. Well, really where is the discrimination if there is an open door in the matter of peddler cars?

Mr. NASH. I can not see any basis for the charge of the wholesale grocers that there is discrimination. The wholesale grocer claims the packer has an ability to ship various kinds of goods to his branch houses in refrigerator cars.

The CHAIRMAN. The real advantage is in owning the car?

Mr. NASH. As to the ownership of the cars, if it gives the packer any privilege or advantage, it was only done, as I said before, because we could not get the railroads to build them. We needed them in our branch-house business and fresh-meat business and had to have them.

The CHAIRMAN. There are advantages in the special car.

Mr. NASH. There are advantages that you have provided yourself.

The CHAIRMAN. The railroad would not supply a man with a car to ship a few hundred pounds?

Mr. NASH. No; he would have to get up a combination to fill the car.

The CHAIRMAN. Any combination in shipment in any business could get a car?

Mr. NASH. I do not know whether the cars exist in such numbers that they could give them to them.

The CHAIRMAN. If they do, they would be supplied with a car the same as a packer.

Mr. NASH. Certainly.

The CHAIRMAN. The trouble is that others can not get together and supply the volume?

Mr. NASH. The trouble is that if a wholesale grocer wants a refrigerator car, he has not provided himself with it. Why didn't he put his money in them like we did. If he wants refrigerator cars, why doesn't he buy them?

The CHAIRMAN. What is the difference in rate between perishable and non-perishable goods?

Mr. NASH. The rate on fertilizer is low, that being a low-priced article.

The CHAIRMAN. We are talking about articles of any kind.

Mr. NASH. Well, I do not know. Fresh meat goes at one rate and canned meat goes at another.

The CHAIRMAN. What is the rate on fresh meat?

Mr. NASH. It is high.

The CHAIRMAN. Which is the higher rate, on meats or fruits?

Mr. NASH. I do not know, Mr. Chairman, I should think that the fresh-meat rate is higher.

Mr. KINCHELOE. You ice your own cars, of course?

Mr. NASH. Yes, sir; at initial points.

Mr. KINCHELOE. You use railroad cars, too?

Mr. NASH. Yes, sir.

Mr. KINCHELOE. The railroad has nothing to do with the icing of cars?

Mr. NASH. Not at our sidings, but at other points. We use our own cars.

Mr. KINCHELOE. Of course you carry nothing but your own stuff in your own cars?

Mr. NASH. No, sir.

Mr. KINCHELOE. Who ices cars along the road?

Mr. NASH. The railroads sometimes and sometimes icing companies for railroad account.

The CHAIRMAN. Do you ice your own cars?

Mr. NASH. At the point of origin; yes.

The CHAIRMAN. Are you about through now?

Mr. NASH. Yes, sir.

Mr. VOIGT. Just one question before you finish: On this point as to whether there is actual competition between the packers on the markets, in part 2 of the Federal Trade Commission's report, on page 76, there is a copy of a letter dated Denver, October 19, 1915, addressed to Mr. J. O. Armour, Chicago, by one of his nephews. It says:

MY DEAR UNCLE OGDEN—

I am just going to read a part of this letter—

I can not tell you how surprised I was in going over the plant here. Of all the plants we have this one certainly needs our first attention. In my opinion the best part of it is as bad as the worst part of any of our other plants. Swift's plant, from what I hear and from the little I saw of it, is far ahead of ours, both as to size and condition. Of course as you know everything here is done on a 50–50 basis, and with the facilities we have it is almost impossible to keep up this ratio.

That letter is signed by Philip D. Armour, 3d. What do you understand he meant in that letter when he said everything was done in Denver on a 50–50 basis?

Mr. NASH. There are only two plants there, his and that of Swift & Co., and I assume they took about 50 per cent each of the receipts.

Mr. VOIGT. Do you think there is any agreement between Swift and Armour for a 50–50 basis?

Mr. NASH. I do not know. If it was not an actual agreement I do not see how you could have other than a working agreement.

Mr. VOIGT. It says that everything there was done on a 50–50 basis.

Mr. NASH. I do not see how you could go further than the receipts of livestock and hogs. I do not see how they could go further than that.

Mr. VOIGT. That is what I mean. You think it means that there is an understanding between those two packers at that point that each shall buy 50 per cent of the receipts of live stock at Denver?

Mr. NASH. Yes; I think that is what it means.

Mr. VOIGT. Do you consider that a proper agreement for two packers to make?

Mr. NASH. I do not think it a bad idea.

Mr. VOIGT. I think it a good idea as far as the two packers themselves are concerned, but I am figuring now on the man who sells cattle in that market. Is it a fair deal to him?

Mr. NASH. Yes; I think so. Swift and Armour——

Mr. VOIGT (interposing). Let me follow that up a little further before you answer: Suppose there are a thousand cattle out here on the street that are for sale, and you and I are the only buyers, and you and I would agree that each will take one-half of those cattle. Aren't we then able to fix the exact price which we are going to pay?

Mr. NASH. Yes; you can fix the approximate price, I think.

Mr. VOIGT. Is there any competition between you and me for the purchase of those cattle, in that event?

Mr. NASH. Not very much.

Mr. VOIGT. Then you will admit that under this sort of an agreement there is not free and open competition for the purchase of live stock?

Mr. NASH. No; I would not admit that, because there are other ways of selling cattle from the Denver market than to Armour or Swift. Shippers may be in there and buy them and ship them to other markets.

Mr. VOIGT. You know as a matter of fact that if Armour and Swift suddenly stopped buying in that market that the receipts in that market could not be sold?

Mr. NASH. No. On the other hand, if Armour and Swift paid unfair prices at that market, or unusually depressed the market, those fellows would not ship their cattle to that market, because there are plenty of other markets to ship them to.

Mr. VOIGT. Let us assume that that is so, but that at another market they encounter the same sort of an agreement, what then?

Mr. NASH. Well, I do not think that outside of one or two of the other markets there are such opportunities.

Mr. VOIGT. You evidently have not studied the report of the Federal Trade Commission.

Mr. NASH. Oh, yes, I have.

Mr. VOIGT. Well, have you noticed in the report of the Federal Trade Commission that the packers at Chicago report to each other every day or every week as to the amounts of their purchases?

Mr. NASH. No; I do not absolutely remember that, but even if they did I do not see anything in that that amounts to discrimination.

Mr. VOIGT. Do you in your business report your purchases and sales to your competitors or to anybody?

Mr. NASH. No; but they get them from the stockyards company.

Mr. VOIGT. No; but in this case it is said they report to each other.

Mr. NASH. They can get that information from the public records. It does not make any difference whether they report them or not, it is a perfectly open and public business.

Mr. VOIGT. Do you know of any reason why the Big Five packers at Chicago should tell each other about their business?

Mr. NASH. No; I do not.

Mr. VOIGT. And if they do it there must be some cause or reason for it.

Mr. NASH. I do not see how it is possible for five corporations doing the same business and talking more or less about their business without mentioning some things of this kind. What they do when they talk about their business I do not know, but they must be intimately related when they have the same dealings every day, that is, the same class of product and the same conditions to meet, and they must talk about conditions.

Mr. CREIGH. Does not your buyer in Chicago every day know from the daily papers and otherwise what is paid there?

Mr. NASH. Yes.

Mr. VOIGT. That being true, why was it necessary for one packer to go to the trouble to notify the other four packers just what he has paid all over the country on any particular day?

Mr. NASH. I do not see quite the idea in asking me what I know about somebody else's business, because I do not know. It is none of my business.

Mr. VOIGT. I am asking why you think they do it.

Mr. NASH. Why, I can not imagine. They never asked me. I do know this: When I said there is competition in the business, and there may be one or two yards where I do not think there is any other practical way to divide up such small receipts, if there are two small packers or plants, and those are comparatively small plants, Armour's and Swift's, at Denver, I think, and the market is very limited; but I think if you will ask the shippers to that market they will tell you that Armour and Swift have paid fair prices as compared with the prices paid at other markets.

Mr. VOIGT. Yes; because if the same condition of 50–50 exists at another market the prices would be about the same.

Mr. NASH. Do you claim that all markets are manipulated in this business?

Mr. VOIGT. Absolutely.

Mr. NASH. I think you are wrong.

Mr. VOIGT. I base my conclusion on the report of the Federal Trade Commission. There has never been anybody before this committee that denied that the facts and figures furnished by the Federal Trade Commission were true.

Mr. NASH. Well.

Mr. VOIGT. If you found that they had a 50–50 agreement in one market wouldn't it lead you to suspect that they had a similar agreement in other markets?

Mr. NASH. Possibly as to the percentage they claimed they did buy, but they do not control the markets when they get there. The markets are so big that independent buyers and shippers for buyers have some influence. I do not care what the big fellow does between himself and his colleague, whether he says, "I will take 25 and you take 25, so long as I get mine."

Mr. PURNELL. But if one takes 50 and the other 50, how much is left for you?

Mr. NASH. They can not do that, except in a small market where they are the whole thing—probably like Denver.

Mr. KINCHELOE. While that might not affect you it would affect the producer.

Mr. NASH. I do not think so.

Mr. KINCHELOE. If you and I agree to take those cattle 50–50, and had no competitors here, and these gentlemen sitting around the table here were producers, do you think it would help them, or that it would help the consumers?

Mr. NASH. I think the packers generally have paid live-stock producers all they can.

Mr. KINCHELOE. I am not talking about that. Say you and I agree to take 50–50 of the cattle at a market, do you mean to say that that does not hurt the producer at all?

Mr. NASH. No, sir.

Mr. KINCHELOE. It does not produce a market?

Mr. NASH. No.

Mr. KINCHELOE. Well, you and I have a whole lot different ideas about markets.

Mr. PURNELL. Assume that at Denver Swift and Armour had this 50–50 arrangement, how far could an independent packer go to break into that arrangement and hold the prices up?

Mr. NASH. At that point?

Mr. PURNELL. Yes. How much influence does the independent buyer have against that particular arrangement if it is true at Denver?

Mr. NASH. Well, here is what we do in buying hogs and cattle: We have every market that is reachable by us report to us every morning. It is inconceivable that Swift and Armour could stand up in Denver and rob the cattle man or the hog man. If hogs or cattle are too cheap in Denver, and if they have one live commission man in that town, he can wire out to people, to independent buyers, and get that market, very easily. We are always looking for snaps, just like anybody else.

Mr. VOIGT. Do you know that those packers have a system of wiring on, as they call it? For instance, if you take a shipment of cattle to a market and are not satisfied with the prices offered and ship them, say to Omaha, do you know that there is somebody at Denver that wires on to Omaha, to the packers in Omaha and tells them the prices they had offered you there?

Mr. NASH. I do not know. A man can not get any more than the price on the market anyhow.

Mr. VOIGT. You say if he is not offered enough at the Denver market he can go somewhere else?

Mr. NASH. Yes.

Mr. VOIGT. And when he gets somewhere else suppose he finds the packers have the price that was bid at the other market at Denver, and they will not bid over that figure?

Mr. NASH. Oh, no. You are talking about some alleged practices of the Big Five. That does not cover the packing industry.

Mr. VOIGT. There is no allegation about it. The telegrams covering same are in the report.

Mr. NASH. Well, all right. There are plenty of independent buyers of cattle. The big packers do not control any live-stock market.

Mr. VOIGT. Let us see about that. According to the report of the Federal Trade Commission the Big Five packers control about 85 or 86 per cent of the live stock handled in interstate commerce. That leaves to you small packers the small amount of 14 per cent.

Mr. NASH. That is untrue.

Mr. VOIGT. That is based on actual figures.

Mr. NASH. Oh, no; I think that is a mistake.

Mr. KINCHELOE. How do you know it is untrue?

Mr. NASH. Because my impression is that it is about 55 per cent of the pork business and about 75 per cent of the beef business.

Mr. VOIGT. You have never assembled any figures, have you?

Mr. NASH. No, but I think these are even the figures shown in the report of the Federal Trade Commission. There have been some figures made by a Government department.

Mr. VOIGT. You differ from the figures offered by the Big Five packers' representatives. The representatives of the Big Five packers admitted that to be true when they were here before.

Mr. HORMEL. Pardon my interruption, but we kill every year 200,000 hogs that do not move out of Minnesota.

Mr. VOIGT. I am talking about interstate slaughterers of meat animals.

Mr. NASH. I am talking about the total business.

Mr. VOIGT. The fact that a butcher in a small country town buys a hog and butchers that hog does not have any immediate effect on interstate commerce.

Mr. NASH. But there are plenty of other men who do not kill one hog but hundreds of hogs a week.

Mr. VOIGT. What I am trying to get at is, if you small packers only control 14 per cent of the interstate business, how are you going to absorb this vast quantity of material that comes on the market. You can not do it.

Mr. NASH. Well, the independent buyers are quite a factor in the markets from day to day. I do not want you to think that they are not, and if there is any point in this country where the hog producer or the cattle producer is being robbed there are plenty of independent packers ready to jump in and equalize the market in any market in this country. There is nobody getting away with any low stuff in any quantity.

Mr. VOIGT. Why, my dear sir, if you handle only 14 per cent of that business, it is impossible for you to absorb the other 86 per cent.

Mr. NASH. Yes; but it is not fair to take the interstate business and leave out all the intrastate business. That is not a fair comparison. Of the total business of the country according to the figures I have seen many times the independent packers have pretty nearly 50 per cent of the total pork business in the United States. The percentage of the big packers in the beef business is around 70 per cent. But in pork the independent packers do about 50 per cent of the total business.

Mr. PURNELL. That is intrastate and interstate?

Mr. NASH. Of all business.

The CHAIRMAN. Without objection we will have these tables printed in the record.

Estimated number and percentage of meat animals by kinds in principal producing States and in the United States, Jan. 1, 1918.

[Supplied by the Bureau of Crop Estimates, Department of Agriculture.]

States.	Cattle and calves other than dairy cows.		States.	Sheep and lambs.		States.	Hogs.	
	Number in thousands.	Per cent.		Number in thousands.	Per cent.		Number in thousands.	Per cent.
United States....	43,546	100.0	United States...	48,900	100.0	United States...	71,374	100.0
Texas.....	4,666	10.7	Wyoming.....	4,100	8.4	Iowa.....	10,307	14.4
Iowa.....	2,919	6.7	Idaho.....	3,202	6.5	Illinois.....	5,111	7.7
Nebraska.....	2,803	6.4	New Mexico.....	3,135	6.4	Missouri.....	4,708	6.6
Kansas.....	2,354	5.4	Ohio.....	3,081	6.3	Nebraska.....	4,200	5.9
Missouri.....	1,782	4.1	Montana.....	3,045	6.2	Indiana.....	4,168	5.8
California.....	1,701	3.9	California.....	2,776	5.8	Ohio.....	3,774	5.3
Minnesota.....	1,540	3.5	Oregon.....	2,448	5.7	Texas.....	3,068	4.3
South Dakota....	1,483	3.4	Utah.....	2,340	4.8	Georgia.....	2,766	3.9
Oklahoma.....	1,404	3.2	Texas.....	2,188	4.5	Kansas.....	2,560	3.6
Wisconsin.....	1,394	3.2	Colorado.....	2,086	4.3	Minnesota.....	2,241	3.1
Illinois.....	1,314	3.0	Michigan.....	1,826	3.9	Alabama.....	2,128	3.0
Total 11 principal States..	23,360	53.5	Total 11 principal States...	30,337	62.0	Total 11 principal States...	45,031	63.1
All other States..	20,186	46.5	All other States.	18,563	38.0	All other States.	26,343	36.9

Stockyards gross receipts of live stock by kinds, 1916.

20 principal stockyards.	Cattle.		Calves.		Hogs.		Sheep.		Controlling interests.
	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.	
Chicago, Ill	2,730,176	18.58	519,624	18.92	9,188,224	21.55	4,291,024	20.80	Prince-Armour.
Kansas City, Kans	2,177,468	14.82	153,999	3.61	2,978,933	6.99	1,758,175	8.52	Morris.
Omaha, Nebr	[1] 1,434,304	9.76	.....	.....	3,116,820	7.31	3,170,908	15.37	Armour.
East St. Louis, Ill	[1] 1,200,330	8.17	.....	.....	3,057,414	7.17	670,838	3.25	Morris, Swift, Armour.
Fort Worth, Tex	905,345	6.16	175,177	6.38	968,024	2.27	430,911	2.09	Swift and Armour.
St. Paul, Minn	756,620	5.15	184,495	6.72	2,674,547	6.27	623,214	3.02	Do.
Sioux City, Iowa	578,758	3.94	22,909	.83	2,131,113	5.00	320,537	1.55	Do.
Denver, Colo	552,121	3.76	49,339	1.80	466,653	1.09	1,409,009	6.83	Do.
St. Joseph, Mo	442,159	3.01	37,751	1.37	2,198,751	5.16	804,326	3.90	Swift and Morris.
Indianapolis, Ind	[1] 405,069	2.76	.....	.....	2,575,611	6.04	98,142	.48	Indepeudent.
Buffalo, N. Y	313,772	2.14	163,123	5.84	1,692,583	3.97	1,023,486	4.96	New York Central R. R.
Cincinnati, Ohio	279,710	1.90	72,330	2.63	1,260,118	2.96	332,241	1.61	Independent.
Oklahoma City, Okla	260,384	1.77	64,491	2.35	759,603	1.78	115,866	.56	Morris.
Jersey City, N. J	221,817	1.51	281,831	10.26	1,075,986	2.52	925,319	4.48	Armour.
Wichita, Kans	[1] 220,133	1.50	.....	.....	572,675	1.34	20,875	.10	Cudahy.
Louisville, Ky	165,497	1.13	36,118	1.32	738,675	1.73	343,457	1.66	Independent.
Baltimore, Md	152,337	1.04	26,082	.95	1,002,617	2.35	270,056	1.35	Morris Shriver.
Cleveland, Ohio	107,572	.73	75,787	2.76	975,586	2.29	235,996	1.24	Independent.
Pittsburgh, Pa	107,417	.73	61,466	2.24	877,749	2.06	337,326	1.63	Armour-Allerton.
Milwaukee, Wis	83,555	.57	159,652	5.81	535,692	1.26	55,178	.27	Swift.
Total, 20 stockyards	13,094,980	89.13	2,084,174	75.89	38,847,374	91.00	17,265,884	83.67	

[1] Including calves.

Interstate slaughterers, 1916—Number of animals slaughtered, by kinds, by the 5 largest slaughterers and by all other interstate slaughterers with percentages of total.

Interstate slaughterers.	Cattle.		Calves.		Sheep.		Hogs.	
	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.
"Big Five" total	6,535,332	82.2	1,654,942	76.6	10,518,874	86.4	25,737,269	61.2
Swift interests	2,276,068	28.6	758,278	35.1	4,434,854	36.4	10,333,755	24.6
Armour interests	1,748,909	22.0	446,393	20.7	2,756,522	22.7	7,775,342	18.5
Morris interests	1,148,562	14.5	194,320	9.0	1,107,405	9.1	2,754,915	6.5
Wilson & Co. (Inc.)	741,401	9.3	152,219	7.0	988,891	8.1	2,835,081	6.3
Cudahy Packing Co	620,392	7.8	103,732	4.8	1,231,202	10.1	2,238,176	5.3
All other	1,412,466	17.8	505,608	23.4	1,653,389	13.6	16,320,133	38.8
Grand total	7,947,798	100.0	2,160,550	100.0	12,172,263	100.0	42,057,402	100.0

NOTE.—Figures for the "five" include those for all slaughtering companies doing an interstate business and known to be severally controlled by them or by their interests, June, 1918. This gives not the actual division of slaughtering for 1916 but one based upon the present known control.

(Thereupon, at 12 o'clock and 55 minutes p. m., the committee recessed until 2.15 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 2.15 o'clock p. m., pursuant to recess, Hon. Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. The committee will come to order. Are you ready to go on, Mr. Lightfoot?

Mr. LIGHTFOOT. Yes, sir. I have several witnesses here. I will ask you to first hear Mr. Smith.

The CHAIRMAN. Has the witness that was on the stand this morning when we adjourned completed his statement?

Mr. LIGHTFOOT. Yes.

The CHAIRMAN. We will hear from you, Mr. Smith.

STATEMENT OF HOWARD R. SMITH, OF THE JONES & LAMB CO., BALTIMORE, MD.

The CHAIRMAN. Will you kindly give your name.

Mr. SMITH. Howard R. Smith.

The CHAIRMAN. And what is your connection?

Mr. SMITH. Why, I am one of the largest stockholders in the Jones & Lamb Co. I was president of that company up to the 15th of March this year. I am not now actively connected with the company.

The CHAIRMAN. And where is it located?

Mr. SMITH. Baltimore, Md.

The CHAIRMAN. Proceed, Mr. Smith.

Mr. SMITH. Gentlemen, I just want to state, as an independent packer, that we are bitterly opposed to any legislation whatever regarding the handling of the packing business. Now most of this artillery seems to be fired at the big packer, and I don't think it is out of order for me to just state briefly my experience in the meat business. I have been in the meat packing business 31 years. The first two years I was there I was connected with a local firm, in Baltimore, and from all reports I had heard, all the money in the world was connected with the big packers, so I thought it was a good idea to get tied up with one of them, and I did, so I was then associated with Morris & Co. for 13 years. I saw that I had considerably better opportunities with a smaller concern than with a big concern, and I couldn't see where they in any sense of the word were monopolizing the industry.

In 1906 I formed the Jones & Lamb Co., in Baltimore. I started it with practically a shoe-string, and we got along very successfully, doing a business of about from $8,000,000 to $10,000,000 a year.

Now there was a great deal of talk here this morning about the competition in buying and selling. I just want to state that we have no trouble in buying all the stock we want, and we can buy just as cheap as the large or the small packers, and I might say the same thing applies to the selling.

And as far as the selling part goes, I would like to further state that, as far as the larger packer is concerned, for the same quality goods we can sell them to a better profit than the large packer. So it

doesn't look to me that bug-a-boo of the packing industry—which is the large packers—is putting anybody out of business.

Now, as regards the selling of the product. This is a rather unusual business. The cost of it—and it may sound singular to the people who are not in the business—but the cost of it doesn't have anything to do with the selling price. In other words, you pay so much for the live animal, and in plain words, you sell it for what you can get for it. There is no relative cost which you can put on any cut of meat and say that you are going to get that for it, because you can not.

Now, the question came up during the investigation this morning about refrigerator cars. I would like to state that we don't own any refrigerator cars. We have, of course, not an extensive business, but we have called on the railroads for as many as four or five in one day. I don't know of any time where we failed to get them. So I don't see where the big packer has so much on us in that respect.

Another objection I have to a commission regulating the packing industry is this: It refers in this bill to their having the power to cause us to keep our accounts and records in such and such a way, and I want to say this, that in a business of our size—in fact with most of the small packers—it is not necessary to have the detailed reports and the amount of details that, for instance, a firm like Armour & Co. have. It is not necessary. They would crowd a whole lot of stuff on us of that nature, and it would absolutely swamp us with details.

Another thing about a commission of this character is this: When the Federal Trade Commission was investigating the packing industry they came to our place in Baltimore; two very nice affable gentlemen came to our place from the Federal Trade Commission. They there about three weeks. They really turned our office upside down. I didn't know whether they were hunting for mice or not; they got into so many things in our old records, but I know it detained us in getting out our yearly statement for about five weeks. So, remembering things of that character, I don't care about any more commissions calling on us if we can help it.

So far as we are concerned, we see no use for a commission of this kind and, furthermore, I think it would be very harmful to the smaller packer, at least.

Of course I am not here defending the large packer. I am speaking for the smaller packers, of which I am one.

Mr. JONES. Well, Mr. Smith, you would not object to any official seeing your books at any time, would you?

Mr. SMITH. Well, I would in this sense that I wouldn't want them to come in there like this commission did; they came in there and tied up our office for three or four weeks, and put us back five weeks in getting out our yearly statement.

Mr. JONES. Of course you would object to that, but you understand the national banks are operated on a system of periodical inspection.

Mr. SMITH. Exactly. But I don't think the banks and industries like the packers are on the same basis. I don't believe you can compare the two. An industry like the packing industry is quite different from a national bank.

Mr. JONES. There are a great many details connected with the banking business, and yet the periodical inspection does not seem to interfere with their business.

Mr. SMITH. Oh, the packing business is not a banking business. They are not operated on the same basis. The bank handles your funds or mine, or State funds, but a packing business does not. They are not parallel cases.

Mr. JONES. I am not talking about whether it ought to be done or not. I am talking about the inconvenience, which is the point you make, of having a business inspector. Now, the banking business is a business that runs into every avenue of trade, practically, and it involves a tremendous amount of detail, and yet they have to go according to such rules, and they must be subjected to periodical inspection by an official, and he does not seem to interfere particularly with their affairs.

Mr. SMITH. Well, why single the packing industry out for all this investigation, when there are so many other industries that seem to get by without any trouble or excitement, which the packing business is constantly under?

Mr. JONES. Well, I wasn't driving at that point just now. I was driving at the inconvenience, which you emphasize, that this would cause your institution.

Mr. SMITH. Yes, it would. It would cause us a great deal of inconvenience, and I don't see any need for it.

Mr. JONES. Now, if your business were conducted according to certain rules, and the man simply came around to observe whether you were complying with those rules, do you think if he came around and did it in the manner in which it ought to be done, that it would materially interfere with your business?

Mr. SMITH. Yes; I don't see any occasion for it.

Mr. JONES. Well, I am not talking about the occasion for it. Suppose some one else does see the occasion for it, suppose the public should see the occasion for it, and should decide that it should be done. Now, what I am getting at is a sort of a specification as to why it would interfere materially with your operations.

Mr. SMITH. Well, it is not only the matter of interfering with the office work, but it is just simply a matter where, from our viewpoint, it is entirely unnecessary for the small packers.

Mr. JONES. Well, you can not brush a thing off that is of such interest as this by simply saying it is not necessary. I am asking you why it would materially interfere with your operation?

Mr. SMITH. I don't know if you can brush it off or not, but I noticed that every question that was asked Mr. Nash this morning was prefaced by "ifs". Now, are we going to base our legislation on "ifs"?

Mr. JONES. No; we are not going to base our legislation on ifs, but we are not going to refrain from having legislation simply because the packers don't want it. Now we are going to have packer legislation or we are not going to have packer legislation, as it may seem wise to the whole people to have it or not to have it. Now if the representatives of the whole people—and the Members of Congress are the representatives of the whole people, including the packers and everybody else—find in their judgment, of if they should come to the conclusion, in their judgment—which is a perfectly legitimate hypothetical question—if they reach the conclusion that legislation is necessary, then it is very important in framing that legislation to know how far certain provisions may interfere with the conduct of the

business, in order to determine how far the legislation should go, and I think the question is perfectly legitimate.

Mr. SMITH. Well, I put it on the ground that I think it would be very harmful to the small packer, because we have the Bureau of Animal Industry inspectors, and if we are committing any serious crimes in the handling of the stuff, where it is hurting the public, why they certainly can take care of it. If we are doing anything illegal, why, the Federal Trade Commission can handle it.

Mr. MCLAUGHLIN of Nebraska. Well, the meat inspection act is a pretty good thing, isn't it?

Mr. SMITH. Well, in some ways, possibly.

Mr. MCLAUGHLIN of Nebraska. Don't you think that has worked out generally good?

Mr. SMITH. Well, I don't know. I don't think that it has been such a wonderful thing; no.

Mr. MCLAUGHLIN of Nebraska. Well, the testimony of a good many others is to the effect that it is.

Mr. SMITH. It has its good features, like anything else.

Mr. MCLAUGHLIN of Nebraska. Do you recall how vigorously the meat inspection act was fought by the same people that are fighting proposed legislation of this kind?

Mr. SMITH. No; I don't recall any terrific fight that was put up.

Mr. MCLAUGHLIN of Nebraska. Well, some of us do.

Mr. SMITH. I was connected with the industry at that time. I was with Morris & Co. at that time, and I would think that I would have known something about it if it was of such serious importance.

Mr. KINCHELOE. You say the independent packer, or your firm, can sell meat to the consumer cheaper than the big packers?

Mr. SMITH. I say it is as cheap, and in a great many cases cheaper, the same quality goods.

Mr. KINCHELOE. Why?

Mr. SMITH. Well, let me tell you why it is. I will give you the reason for it. There is a reason for this thing. And it doesn't make any difference whether it is the packing business or what business it is. After you get to a certain point, why, you reach what you call diminishing returns, and as the big packer has grown, why, his returns diminish, because he has got a certain amount of overhead there which he has got to carry in the way of details, where a small packer doesn't have to do it. By the time he has all that, and he strikes a dull period, he will lose so much money during that dull period that at the peak of the year he can not make it up. That is why the smaller packer can make out better than the larger one in a great many cases.

Mr. KINCHELOE. Well, the general economic business theory is that they can operate cheaper, isn't it, because they are large?

Mr. SMITH. Well, I don't know about what the theory is. I am only talking about the facts.

Mr. VOIGT. Well, now, the fact is that the five big packers have not yet reached the point of diminishing returns, because up to date they have been growing faster in their business than the small packer?

Mr. SMITH. They have been growing, I agree with you, but their return on their investment has been decreasing. I know that from the time that I was with Morris & Co. They don't begin to make the percentage of profit that they did in those days.

Mr. KINCHELOE. Do you think that is because of their business enlarging?

Mr. SMITH. I think it is.

Mr. KINCHELOE. Well, then, why would they want it enlarged? If that is the case, why would they want their business to grow larger?

Mr. SMITH. Well, no business can stand still. They have either got to go ahead or go back.

Mr. KINCHELOE. Well, then, according to your theory it would have paid them to go back instead of enlarging?

Mr. SMITH. No; it would not.

Mr. KINCHELOE. Well, you say when they get to a certain point, and you say Morris & Co. have already got to that, they begin to go back. You specified Morris & Co.

Mr. SMITH. No; I didn't specify.

Mr. KINCHELOE. Well, you mentioned Morris & Co.

Mr. SMITH. Well, any company.

Mr. KINCHELOE. Well, you say that Morris & Co. were not making as much as they used to.

Mr. SMITH. Yes; in that case.

Mr. KINCHELOE. And evidently on the theory that they had grown too large.

Mr. SMITH. No; I didn't say they have grown too large. I say they have reached the point of diminishing returns.

Mr. KINCHELOE. Well, because of their immensity, because of the immensity of their business?

Mr. SMITH. Exactly. And that is done by the heavy overhead.

Mr. KINCHELOE. Well, the point I am making is this: If it is because of their immensity of business, and you say they can not stand still, why wouldn't they want to decrease instead of increasing, to get bigger returns?

Mr. SMITH. You have to ask them.

Mr. KINCHELOE. I will ask you, because that is an unusual theory of economics.

Mr. SMITH. No, it is not. It will apply in any business. Not only this but any business.

Mr. KINCHELOE. Does your company own any yards?

Mr. SMITH. No, sir; we haven't any stockyards stock whatever.

Mr. KINCHELOE. Where do you go to buy your stock?

Mr. SMITH. To the different stockyards through the country. That is, you might say, Kansas City and east of there. We don't get anything west of Kansas City.

Mr. KINCHELOE. You ship them on foot to your plant?

Mr. SMITH. Yes.

Mr. KINCHELOE. Well, according to your idea, you don't think it ought to be bothered at all?

Mr. SMITH. Absolutely not. I am opposed to any legislation of that character.

Mr. MCLAUGHLIN of Nebraska. That includes stockyards, too? You are not in favor of regulating stockyards?

Mr. SMITH. Yes, sir. I don't see any terrible evil about the stockyards.

Mr. MCLAUGHLIN of Nebraska. Well, now, up in Minnesota before the State law there went into operation regulating the stockyards, the shippers into those yards were sold 75-pound bales of hay; that

is, they were sold bales of hay that were supposed to be 100-pound bales, and paid for 100 pounds to the bale. Their grain was thrown in on the ground and wallowed over by the stock, and then afterwards cleaned up and resold. And the scales in the yards all had 10-pound brakes on them. After the State law began to operate they put troughs in to feed the stock in. They saw that the feed was all weighed out, and when 100 pounds were charged for 100 pounds were delivered. And they assembled all of the scales and took the brakes off so that they would actually weigh what they were supposed to. Now, don't you think that that was something that needed regulation? And those are actual facts.

Mr. SMITH. All right. That is an isolated case, in St. Paul, I presume, from what you say?

Mr. MCLAUGHLIN of Nebraska. That was in the stockyards at South St. Paul.

Mr. SMITH. That condition existed at South St. Paul?

Mr. MCLAUGHLIN of Nebraska. Yes.

Mr. SMITH. Well, I had not heard of that.

Mr. MCLAUGHLIN of Nebraska. And other evils in the country. Don't you think they needed regulation?

Mr. SMITH. Well, if such evils as that exist they ought to be corrected. It may be they do exist at the stockyards. But that is no occasion why the packers should be saddled with other additional burdens and other additional annoyances.

Mr. MCLAUGHLIN of Nebraska. You said that you were opposed to any legislation of this character?

Mr. SMITH. Well, I mean governing the packing industry.

Mr. KINCHELOE. Do you mean when an evil like that exists it should not be corrected?

Mr. SMITH. Yes; it should be corrected.

Mr. KINCHELOE. Well, how can it be corrected unless Congress acts to correct it?

Mr. SMITH. You say stockyards.

Mr. KINCHELOE. Well, take the stockyards.

Mr. SMITH. Well, if that exists in the stockyards, I don't see why the packing industry should be put under the same rule.

Mr. MCLAUGHLIN of Nebraska. There are other practices of the packers that are on record that might need correction, too.

Mr. JONES. You spoke of the former profits of the packers. It has been suggested a good many times that a portion of those profits, at least, were made by virtue of rebates, given because of the amount of shipments. Do you think it was wise to correct that evil?

Mr. SMITH. I can't answer that. That is something that is up to the big packer. But if such is the case I can't see why the smaller packers should be saddled with a whole lot of legislation of that character. Of course, if those evils do exist, I don't know anything about that. During my 13 years with Morris & Co. in Chicago I knew of no rebates. I was at that time one of their—well, I won't say prominent men, but one of their representative men.

Mr. JONES. You know that there were a great many rebates granted not only to the packers but to others?

Mr. SMITH. Well, what was openly granted I knew like anybody else, but as far as rebates were concerned, I didn't know anything about them.

Mr. JONES. I won't say that all of them were open rebates, but there were a great many rebates granted to shippers who had a great many things to ship. Now, the railways always fought regulation. They fought the provisions requiring them to have automatic couplers, for instance. They admitted later that it was a fine thing to have when the law required them to have them. But they didn't even want to have automatic couplers between the cars. They always say, "Turn business loose." But if you are going to allow a business to grow, and grow legitimately, certain regulatory legislation must be adopted in the interest of the public. Now, the question is just how far those regulatory measures should go. Now, I don't know whether it is necessary in this case. That is what we are investigating. Now, what particular measure would you specify in addition to the ones that you have enumerated, if any? You enumerated them a while ago, and I want to know if there are any other features of this bill.

Mr. SMITH. Well, mentioning the rebate feature, if there is anything like that existing at the present time the Interstate Commerce Commission can handle that.

Mr. JONES. Well, I don't know that there is. I was just speaking of that formerly having existed, and the efforts made to correct that by regulation.

Mr. KINCHELOE. Well, if there should be lack of competition among the big packers in the country in the buying of stock, you would concede that as an evil, wouldn't you, and to the detriment of the consumer?

Mr. SMITH. There comes up that question "if" again.

Mr. KINCHELOE. I am putting that on that ground.

Mr. SMITH. How is that now again?

Mr. KINCHELOE. I say, if there is a lack of competition among the packers in buying the stock, you would concede that that is an evil that ought to be regulated, wouldn't you?

Mr. SMITH. Well, there isn't any lack of competition. We go on the market and buy hogs just the same as Swift & Co. and Morris & Co. and Armour & Co., or anybody else. We all go on the market and buy hogs in just the same way. There isn't any lack of competition. We buy hogs like anybody else.

Mr. KINCHELOE. Well, you are talking about your business.

Mr. SMITH. And the other independent firms have the same privilege.

Mr. KINCHELOE. Well, how about the big packers?

Mr. SMITH. Well, they buy in all the yards the same as the small packers.

Mr. KINCHELOE. Do you say there is no lack of competition with the big packers?

Mr. SMITH. No; I don't say there is no competition. I say there is competition with everybody. For instance, if there are 100 cars of hogs in the market to-day, and there should be bids for 150, if there should come in bids for hogs from people on the outside, the market would be apt to stiffen, while if there are 100 cars of hogs and there are only orders for 50 cars, it is apt to weaken a trifle.

Mr. KINCHELOE. Well, it was reported to the Federal Trade Commission where Swift & Co. and Morris & Co. bought their cattle in Denver 50–50. What about that?

Mr. SMITH. I can't explain that.

Mr. KINCHELOE. You don't know anything about that?

Mr. SMITH. No; I don't know anything about that. I don't know anything about Armour & Co.'s or Swift & Co.'s business.

Mr. KINCHELOE. Then you say that if there is a lack of competition among the big packers you don't know about that personally, do you?

Mr. SMITH. Well, you may strike an isolated case that way, like in Denver or in St. Paul.

Mr. KINCHELOE. Well, let us see about that, whether that is an isolated case. If Swift and Morris could do that in Denver, couldn't all five of them do that in Chicago?

Mr. SMITH. Well, it is hardly possible in Chicago.

Mr. KINCHELOE. Why?

Mr. SMITH. Because of the number of buyers that are in there. They are in there from all over the country.

Mr. KINCHELOE. Well, if it is a fact, as the Federal Trade Commission says there, that about 86 per cent of the business, interstate commerce, is controlled by the Big Five packers, how do the independent packers, who handle only 14 per cent, control the market?

Mr. SMITH. I don't think that figure of 14 per cent is right, as far as the hog business goes. I think the large packers on the actual slaughtering handle about 55 per cent, and the small packers 45 per cent.

Mr. KINCHELOE. Of interstate commerce?

Mr. SMITH. No.

Mr. KINCHELOE. I am talking about interstate commerce.

Mr. SMITH. Well, that is not a fair comparison. Because there is so much stuff killed in the various States that doesn't get out of the States where it is killed.

Mr. KINCHELOE. Well, where it is killed and used at home?

Mr. SMITH. Yes.

Mr. KINCHELOE. I am not talking about that. I am talking about the products that enter interstate commerce.

Mr. SMITH. Well, I couldn't just speak of the interstate commerce. I know the killing that is being done by the various firms around the country, and what the independent companies do and what the larger packers do.

Mr. KINCHELOE. You don't know the percentage, and therefore you don't know the proportion that goes in interstate commerce?

Mr. SMITH. I do know the per cent that they kill. That is published in the papers.

Mr. KINCHELOE. I am not talking about that. That is not my question. You don't know how much goes in interstate commerce?

Mr. SMITH. You mean that is shipped interstate?

Mr. KINCHELOE. Yes.

Mr. SMITH. No; I don't know that.

Mr. KINCHELOE. Therefore you don't know whether the figures that are put out by the Federal Trade Commission are correct or not, do you, Mr. Smith?

Mr. SMITH. No, that is true.

Mr. KINCHELOE. That is what I wanted to get at.

Mr. SMITH. I don't know that.

Mr. CREIGH (representing Cudahy Packing Co.). Could I make one suggestion right there that is quite important?

The CHAIRMAN. You may.

Mr. CREIGH. Mr. Smith is in Baltimore, we will say, and as I understand, he kills hogs that he buys West and has shipped in there; Is that right Mr. Smith?

Mr. SMITH. That is right.

Mr. CREIGH. Now, I don't know what proportion of his business at Baltimore moves interstate, but it seems to me that it is perfectly obvious that whatever he kills in Baltimore to supply the local market in Baltimore is quite a factor with Cudahy or Swift.

Mr. SMITH. Well, on that line I would say that of our entire business 65 per cent of it would be in the State of Maryland. That is an illustration of how the interstate figuring does not show it in exactly the true light.

Mr. KINCHELOE. How many head of cattle and hogs do you kill on an average?

Mr. SMITH. We don't kill any cattle.

Mr. KINCHELOE. Well, hogs?

Mr. SMITH. About 200,000 hogs.

Mr. KINCHELOE. A year?

Mr. SMITH. Yes.

Mr. KINCHELOE. What per cent of that is in Baltimore, do you say? You mentioned 65 per cent?

Mr. SMITH. Not in Baltimore. I say 65 per cent of our business is in the State.

Mr. KINCHELOE. Well, I mean in Maryland?

Mr. SMITH. About 65 per cent; that is, approximately. Now, you can take some of the larger packers in Philadelphia. There are some of those companies there that kill possibly 300,000 hogs a year, some of the large ones there, and I will venture to say that 80 per cent, yes, fully 80 per cent of it stays in the State of Pennsylvania.

Mr. KINCHELOE. Well, of course that is true; but I am not talking about the per cent.

Mr. SMITH. Well, that changes that considerably.

Mr. KINCHELOE. I am not talking about the per cent. That does not interest me at all. But the shippers in that State, where the stock is bought, right there——

Mr. SMITH (interrupting). It is not bought there, excuse me, sir. It comes from the West.

Mr. KINCHELOE. I thought you said there was no live-stock interstate.

Mr. SMITH. Consumed.

Mr. KINCHELOE. Consumed?

Mr. SMITH. Yes.

Mr. KINCHELOE. Well, that may be. The idea that I was getting at was as to the proportion of the business of these packers that enters into interstate commerce.

Mr. SMITH. What do you mean by the business? Do you mean by that the live stock that we are getting East?

Mr. KINCHELOE. Yes; the live stock that you get.

Mr. SMITH. Why, the live stock that is killed in the East, I venture to say that 80 per cent of it comes from the West.

Mr. KINCHELOE. So that is a big per cent.

Mr. SMITH. Yes.

Mr. KINCHELOE. Interstate commerce?

Mr. SMITH. Yes; of the live stock. I thought you were speaking of the output.

Mr. KINCHELOE. No.

Mr. VOIGT. If you will just permit me to inject. At page 40 of part 2 of the report of the Federal Trade Commission there is a table which gives the number of animals of all sorts slaughtered by interstate slaughterers at the 12 leading points in the United States. That shows that of the interstate slaughtered the five packers have 86.4 per cent and all others 13.6 per cent for the year 1916.

Mr. SMITH. What were those points, may I ask?

Mr. VOIGT. Chicago, Kansas City, Omaha, St. Louis, New York, St. Joseph, Fort Worth, St. Paul, Sioux City, Oklahoma City, Denver, and Wichita.

Mr. SMITH. Well, with the exception of New York practically every one of those places are points where the western packers, the five big packers, have plants, and there are very few small packers in those cities. That can account for that. Now you take the East; you didn't mention any place in the East there, I don't think, excepting New York. There are more hogs killed in Baltimore than at any point east of Cincinnati. So you see those records do not fit in just the way they should, from my viewpoint. Those points they have there are the points where the big packers have their plants, except New York City, and there are very few independent people in those points. That explains that. And you don't mention Cincinnati, you don't mention Buffalo, you don't mention Philadelphia nor Baltimore, or Detroit, or Cleveland, or Indianapolis, or Louisville. By the time you mention those cities that they have left out, why you find that your 86 per cent drops to about 55 per cent, where we said it was about.

The CHAIRMAN. It will be necessary for us to take a recess now while the Members go onto the floor for a vote.

(Thereupon a recess was taken while the members of the committee went to the floor of the House for a vote.)

(After the recess the proceedings were resumed.)

The CHAIRMAN. You may proceed, Mr. Smith.

Mr. SMITH. Well, gentlemen, I guess there is very little more that I can say, more than to say this, that I can not see where any of our economic problems are solved by any of these bills; that is, from the viewpoint of the small packer.

Now, as far as the stockyards are concerned, if such evils exist as you gentlemen state, why I can not see why there should be a bill saddled on the packers just to regulate the stockyards. But if we have got to have a bill, and you gentlemen seem to think it is a necessity, I would think a bill along the line of the Haugen bill would be more desirable than any of these others that they have presented.

Mr. KINCHELOE. Well, let us see. His bill leaves the administration to the Secretary of Agriculture.

Mr. SMITH. Yes; that is the Haugen bill. That leaves the administration to the Secretary of Agriculture.

Mr. KINCHELOE. And Mr. McLaughlin's bill provides for a special commission formed by the President, and Mr. Anderson's bill leaves it to the Federal Trade Commission.

The CHAIRMAN. The Anderson bill and the Haugen bill are about the same.

Mr. SMITH. Well, I think that would be the least objectionable one, if we have to have one; that is, the Haugen bill. But from the viewpoint of the small packer, ' can't see where any of them are going to solve our economic problem, because the small packers, like the large packers, for the past 18 months have not made any money.

I don't think there is anything else I have to say unless you gentlemen want to ask me some questions.

The CHAIRMAN. Are there any questions to be asked of Mr. Smith, Mr. McLaughlin?

Mr. MCLAUGHLIN of Nebraska. Just before we recessed a moment ago, I was going to make a statement, if Mr. Smith will permit, based on one of his opening statements when he began to testify. He said in substance that the questions of this committee relative to whether or not any legislation was needed or might be advisable, were all prefaced by "if." So it might be only fair to the committee to say that in examining gentlemen who are testifying it is not the object of the committee to try to make everybody agree with what members of the committee may think or may have found out, when the committee has before it here in one hearing 2,864 pages of testimony, and has before it the complete report of the Federal Trade Commission, has before it Senate hearings on this same subject, and thousands and thousands of pages of testimony, much of it seeming to point out that there are evils in connection with the conduct of this industry, especially as pertains to the Big Five. Now, the members having this evidence in mind, which the witness perhaps does not have in mind and has not taken the time to read, why, it is very natural that a member would say that "if" certain things should appear to be true, wouldn't it be the logical thing to pass legislation to correct it?

Mr. SMITH. Well, I think I replied to that question a few minutes ago when I said that if you gentlemen think there should be a bill, that we have got to have a bill—I have looked them over, just glanced them over, all of them—why, then I think the Haugen bill would be the least objectionable, and it would fit in more, with the smaller packers at least, if you have got to have it. That, I think answers your question.

The CHAIRMAN. Would you indicate the objections that you have to either of the bills? Are there any serious objections to either of them?

Mr. SMITH. Well, I haven't studied them line for line. Just reading them casually I would say that the Haugen bill is the least objectionable of them; it is less objectionable than the others. The others vest too much power in the commission.

The CHAIRMAN. To what extent does the Department of Agriculture come in contact with the packers now?

Mr. SMITH. Well, they have inspectors at the plants; they have both veterinarians and meat inspectors. Of course, we are under their supervision entirely. They look at all the product we turn out. They inspect it and examine it to see if it is sound and wholesome, as they term it. And if there is any animal which they deem unfit for human food, it is condemned.

Now, that is another thing that the packers have saddled on them which seems to us unjust. We may go out here to the stockyards

and buy 10 cars of hogs and pay the top of the market, and buy them supposedly for healthy animals. Ten minutes afterwards we bring them in the slaughterhouse and start to kill them, and all of them are condemned. We lose the money, and the farmer gets it all.

The CHAIRMAN. Well, that is the Animal Industry.

Mr. SMITH. Yes.

The CHAIRMAN. Well, now, what about the stockyards? Have you any departmental people in your stockyards?

Mr. SMITH. Any in our company?

The CHAIRMAN. No; I mean any representative of the department in your stockyards? They are in a number of stockyards. I didn't know whether they were in Baltimore.

Mr. SMITH. Oh, yes; the Department of Agriculture have people there in the stockyards, inspectors.

The CHAIRMAN. Well, they have inspectors there. Do they have others there, reporters of markets, etc.? Do they have any market reporters there?

Mr. SMITH. I don't know. [Addressing Mr. Greenwald.] Mr. Greenwald, do they make any reports of that character?

Mr. GREENWALD. Yes.

Mr. SMITH. You see, we are not located in the yards.

Mr. GREENWALD. The Bureau of Markets handle that.

Mr. SMITH. That is handled by the Bureau of Markets.

The CHAIRMAN. In Baltimore?

Mr. SMITH. Yes. They report that. But I thought you had reference to inspection of the yards.

The CHAIRMAN. Oh, yes; they have inspectors in the yards.

Mr. SMITH. I didn't mean the meat inspector. I thought you had reference to what you termed stockyards inspectors.

The CHAIRMAN. I was trying to find out to what extent the activities of the department went in Baltimore.

Mr. KINCHELOE. You spoke of the Agricultural Department having a live-stock inspector in there inspecting those hogs, and the example that you gave was that if you bought hogs and you paid the top price for them and they turned out to be diseased in some way and were condemned, you would have a loss. Of course, it is unfortunate that your concern should have that loss, but don't you think the fact that there are those inspectors from the Bureau of Animal Industry of the Agricultural Department is a good thing to protect the public? Now, under that state of the case if you went on to kill them you would not willfully put up this diseased meat?

Mr. SMITH. No; but do you think we ought to pay $15,000 or $20,000 for some hogs and have $5,000 worth of them condemned, and that the farmer should get his money and we have no redress at all?

Mr. KINCHELOE. I am not basing it on that proposition at all. I am talking about the proposition that it is a wholesome thing for the public.

Mr. SMITH. Oh, that is all right about the animals being condemned, but there is no reason why we should pay for them. That is the point I am making.

Mr. KINCHELOE. I don't think you ought to be allowed nor should anybody else be allowed to sell diseased meat to the public in order to make a saving on the animals. I don't think it is a question of

dollars. I don't believe anyone should be allowed to sell diseased meat.

Mr. SMITH. No; I agree with you on that, but then the farmer should not have our money.

Mr. KINCHELOE. I am not arguing with you on that proposition, as to who should stand the loss, but I am arguing the fact that the Federal Government has put an inspection service in there to stop the sale of diseased meat for which you were not responsible when you bought it.

Mr. SMITH. You are absolutely right, but you are not going far enough.

Mr. KINCHELOE. When the public pay the top price for the stuff they ought to have good meat.

Mr. SMITH. We get it both ways. When the farmer sends in these hogs and we buy them and they are condemned, we have no redress. And if we send out hams that are tainted, if they were not properly cured, why we have to allow the man for them. If we ship them out, why they would want to put us in jail if we didn't allow them for those hams. So we have to allow them for those. And in that way, as I say, we get it both ways.

Mr. KINCHELOE. Well, I am not arguing about who should bear the loss; I don't care about that, for the purpose of this legislation. But now don't you think that it is a wholesome thing for the public, and doesn't it keep the confidence of the public in you gentlemen as packers, if there is a representative of the public there to see that they get nothing but good and sound meat?

Mr. SMITH. Well, do you mean to see that we do not use diseased meat?

Mr. KINCHELOE. Yes.

Mr. SMITH. Absolutely.

Mr. KINCHELOE. I don't mean that you intentionally would do that.

Mr. SMITH. Yes; sure; I understand.

Mr. KINCHELOE. But I am talking about the law.

Mr. SMITH. Yes.

Mr. KINCHELOE. I am talking about the law requiring that an inspector be placed there to see that the public get nothing but good and sound meat.

Mr. SMITH. Yes. I don't think any reputable packer in the United States would attempt to do anything like that.

Mr. KINCHELOE. No; I didn't mean that.

Mr. TEN EYCK. Do you state all there is to that transaction when you state that when those hogs were condemned, because they were diseased, the farmer having received his money for them, that you got nothing?

Mr. SMITH. We have no redress whatever, absolutely none.

Mr. TEN EYCK. You don't get any compensation from anybody?

Mr. SMITH. None whatever.

Mr. TEN EYCK. Isn't there a law in the State of Maryland that when they condemn cattle of that sort they compensate you to the extent of a certain amount?

Mr. SMITH. If the State animal inspectors condemn cattle on the farm, they give the farmer a certain amount of the value of the stock, a certain per cent. But if the packer kills his hogs, and the Govern-

ment condemns them, after the packer has bought them and paid the top price for them, he has no redress. He may buy the hogs in the morning, and he may have handed the man from whom he bought the hogs the money that very morning, and that same afternoon they might be condemned by the Government, but we would have no redress. We lose it all.

Mr. TEN EYCK. Haven't you got any experts who are on the lookout for such things?

Mr. SMITH. We can not tell if a hog is tubercular when he is walking around in the pen. Some of the finest hogs we have might have what they call generalized tuberculosis, and you can not tell by looking at a hog if he has tuberculosis.

Mr. TEN EYCK. Can't you tell before you kill the hog whether he is tubercular? Don't you take a certain percentage in large purchases of that kind and examine them? Don't you take every tenth hog and make an examination?

Mr. SMITH. No; nobody would do that. If you undertook to do anything of that kind you never would get your stuff out of the stockyards.

Mr. TEN EYCK. You don't?

Mr. SMITH. No.

Mr. TEN EYCK. But it is possible to test a hog when he is alive and find out whether he is tubercular?

Mr. SMITH. No.

Mr. TEN EYCK. Don't you know that from your own knowledge?

Mr. SMITH. No.

Mr. TEN EYCK. How long have you been in the business?

Mr. SMITH. Thirty-one years.

Mr. TEN EYCK. Don't you know as to whether you can test a hog or cattle while alive, for tuberculosis?

Mr. SMITH. Well, yes; you can, I suppose.

Mr. TEN EYCK. Don't you know that?

Mr. SMITH. But you would never get the stuff out of the yards if you attempted to test every hog in there and every steer.

Mr. TEN EYCK. No; I was just merely asking you whether you knew from your own knowledge if that could be done. You made the statement that there was no way to tell while the animal was alive.

Mr. SMITH. I retract that. I mean there is no way of telling by looking at the hog.

The CHAIRMAN. But you take the loss into account in estimating cost and profits? The loss is distributed among all?

Mr. SMITH. No, indeed. If there are so many hogs lost and if there are so many cattle lost out of the purchase, that is usually counted up in the shrinkage.

The CHAIRMAN. If no losses were incurred on account of tuberculosis you would pay more for them?

Mr. SMITH. Yes; I should judge so. The more they lose the higher the cost is.

The CHAIRMAN. I always understood that that was taken into account, and was taken as part of the cost in estimating.

Mr. SMITH. No; that would just be the shrinkage on that particular purchase, whatever the loss may be.

Mr. KINCHELOE. What is the reason you would not have an action in court against the person from whom you bought that carload of hogs?

Mr. SMITH. I couldn't answer that. Maybe some of the legal gentlemen here can answer that question.

Mr. JONES. But you are in a little different position from the farmer in this, that the farmer does not fix his own price, and you, in a large measure, fix the price you pay him, and the price you sell your products for. And in fixing this price you charge this to profit and loss, in the general run of the business, these losses you have here, and the prices are fixed in such a way, the prices you pay generally, and the prices you sell your meat for, that you make a profit.

Mr. SMITH. No; you can't do that. There may be 10 packers in a town, and each one of them might kill 10 carloads of hogs, for illustration. Now 1 man out of the 10, we will say, might have 2 cars condemned for tuberculosis. Now, that man can put his price anywhere he wants to, but he can not get any more than the other nine fellows.

Mr. JONES. But in the general run of the business, they all have the experience, and in the general run of the business this is charged as one of the expenses of the business, and the prices are fixed in such a way that most of the packers that operate properly make a profit, and, of course, this goes in as one of the expenses, doesn't it, in the general run of each man's business?

Mr. SMITH. Well, you can call it expense if you want to. I call it a dead loss.

Mr. JONES. Well, it is an expense even if it is a dead loss, isn't it?

Mr. SMITH. Yes.

Mr. JONES. Most expense is a dead loss, isn't it?

Mr. SMITH. Yes; that is true, but there is no reason why we should hand out our money for diseased animals. Now, as the gentleman asked there: Can't you tell by examining these animals? Certainly, a veterinarian could examine each one of them, I presume, unless it is a very concealed case, and tell whether the animal is diseased or not before the animal is slaughtered; but if you attempt to go into the stock yards and buy hogs and cattle and have each one of these animals examined before it is purchased and bought, why you could not operate.

Mr. JONES. That is a matter of business judgment. Whether it is better to go ahead and take your chances on the loss, or whether it is better to examine each animal and make a test of it before you buy it, is a matter of business judgment. Now, as to whether it is better, a better business policy, to take all of them as they come on sight and take your loss when they are condemned, along with the other fellow, or whether it is better to have them examined by a man of your own, that is a matter of business judgment. In either event it should be charged to expense.

Mr. SMITH. Well, you go out to the stockyards and examine a couple of carloads of hogs, and you will see how long it would take. You couldn't operate.

Mr. JONES. Well, you are not in any worse position than your competitive packer, are you?

Mr. SMITH. No.

Mr. JONES. You are on the same basis?

Mr. SMITH. Yes; but nevertheless the farmer ought not to receive money for a whole lot of diseased animals.

Mr. JONES. But the farmer should receive a profit on his animals.

Mr. SMITH. Yes; and so should the packer.

Mr. JONES. But it frequently happens that the average farmer can not make the profit that the packer can make.

Mr. SMITH. I have not been in the farming business, so I couldn't say.

Mr. TEN EYCK. I didn't mean, when I was asking you the question, that we wanted you to test every animal. I mean that you would test, say, 1 out of every 10, if you were buying a large number of hogs, which would mean a large investment. In addition to that, isn't it true that some cattle that are tubercular, and that the State has condemned, and for which the farmer is paid, that a lot of those cattle are permitted to be sold and eaten, because the meat is not bad for human consumption?

Mr. SMITH. I don't know of any cattle that the State veterinarians have condemned with which that is allowed to be done. I never heard of such a thing.

Mr. TEN EYCK. You never heard of such a thing?

Mr. SMITH. No, sir.

Mr. TEN EYCK. Well, I think they do that.

Mr. SMITH. Not in the State of Maryland. In the State of Maryland if they condemn any cattle for tuberculosis they bury them. I don't know what they do in the other States. The State veterinarians there bury them. They put quicklime on them.

Mr. TEN EYCK. Of course, you are in the State of Maryland. I don't know your laws. But I know there are laws on statute books in different States whereby there are certain degrees of infection recognized as not affecting the meat.

Mr. GREENWALD. Oh, well, that is a different proposition.

Mr. SMITH. I don't know anything about that.

Mr. TEN EYCK. And the meat can be sold, but nevertheless that cow is condemned for tuberculosis.

Mr. GREENWALD. They won't let you use a tubercular cow for human food. There may be one gland in the neck. For tapeworm they will permit you to sterilize it, put it under steam pressure, and it can be only used for a certain product. But they won't permit you to use a tubercular cow for human food. All animals that are tubercular are condemned.

The CHAIRMAN. In the State of Maryland?

Mr. GREENWALD. In any State where there is Federal inspection.

The CHAIRMAN. In any State where there is Federal inspection?

Mr. GREENWALD. Yes. But for tapeworm they permit you, under Federal inspection, to sterilize the meat.

Mr. JONES. They don't permit you to use any portion of the carcass when the carcass is condemned? If an animal is condemned, they won't permit you to use any portion of it?

Mr. GREENWALD. Not when they are tuberculosed.

Mr. JONES. You can use the hide.

Mr. GREENWALD. Yes; but not the carcass.

Mr. TEN EYCK. Is that a Federal law?

Mr. GREENWALD. That is a Federal law.

The CHAIRMAN. Federal regulation.

Mr. GREENWALD. In the State of Maryland we have a State inspection which is a joke. The Federal inspection is all right.

The CHAIRMAN. Does that apply to cattle and hogs?

Mr. GREENWALD. Yes.

The CHAIRMAN. But the same rule applies to the feeder as to the packer. The feeder buys a steer or a carload of cattle, and if they are found to be diseased, the loss is borne by him.

Mr. SMITH. No; the packer generally buys them from the farmer.

The CHAIRMAN. He puts them in the yard, and if the animal dies in the yard he stands the loss?

Mr. SMITH. Yes; he stands the loss.

The CHAIRMAN. Anything else?

Mr. SMITH. That is all I have. Thank you.

Mr. LIGHTFOOT. I will ask you to hear Mr. Taliaferro.

The CHAIRMAN. Very well.

STATEMENT OF THOMAS W. TALIAFERRO, VICE PRESIDENT AND GENERAL MANAGER HAMMOND, STANDISH & CO., DETROIT, MICH.

The CHAIRMAN. You may proceed.

Mr. TALIAFERRO. Are there any questions you want to ask of me, Mr. Haugen?

The CHAIRMAN. You can go on in your own way. Do you prefer to go on and make your statement, Mr. Taliaferro?

Mr. TALIAFERRO. Well, I came down to appear before you gentlemen in opposition to the several bills that are before you. And I did that for the reason that I can not see where any good could possibly come from them, or where they could correct any supposed evils in the business.

Now, with reference to the bills that you have before you. The McLaughlin bill I would consider a very drastic measure and one calculated to do the industry a great deal of harm.

The Haugen bill is not so drastic in its provisions, and with some eliminations, perhaps with some changes—if the committee thinks that a bill at all is necessary—I believe could be made to at least not handicap the business more than it is at the present time.

The packing business now is in a very critical state. It has been in a very critical state for the past two or three years, and it needs all of the help that it can possibly get to pass over the present very unfavorable situation, and I feel that it would be in the province of this committee and in the province of Congress to do everything they could to help the business, which is the most fundamental in this country, rather than to handicap it in any way. Being a perishable business, and dealing only in perishable products, it is very susceptible to the least unfavorable conditions. The conditions in this business, as I said before, have been very unfavorable. I don't think that there is a packer in the United States that has made any money in the last two or three years, and in my estimation, the business will not survive if this is continued for another year. It certainly now is in such shape that any unfavorable legislation would react to the great disadvantage of the business, both of the producer and the consumer.

The packing business is naturally one that everybody takes a crack at for the simple reason that high prices to the producer means high prices to the consumer, and the reverse is true. So that in order to satisfy the producer and get him a profit on producing and thereby continue the industry, profitable prices have to be paid. That brings a fire from the consumer. So that the packer himself is between the devil and the deep sea. He has no friends, because in the nature of the business he can hardly expect it, because the minute that he pleases one-half of the population he offends the other half, and when the reverse conditions are in effect he has the opposition of the other side.

There have been in all businesses, as well as the packing business, some, perhaps, faults, that I think, to a large extent have been eliminated in the packing business. I have been in this business 42 years. I have never done anything else. I started in with a knife in my hand trimming little pieces of sausage meat. And I have seen it grow through all of the stages in the development of the wonderful business that is now in existence. And I would hate to see at my time of life anything done to handicap, retard or destroy the business that, in my estimation, is the most fundamental business in this country. And I think that legislation of any kind—it doesn't make any difference what kind of business it is—that acts as a brake or retards the free flow of the product from the producer to the consumer, will react to the disadvantage of both.

The legislation that has been proposed before the last two or three sessions of Congress, in my estimation has done a great deal to hurt the industry, because it has unsettled credit, it has made it increasingly hard to get money, it has made it increasingly hard to do business abroad, it has engendered the opposition and fanned the flame of prejudice which now, above all times, it should be everybody's endeavor to eliminate.

And if I may be allowed to suggest one thing, it is this: To give business a chance, stop regulating it. Let it flow freely and let everybody put their shoulders to the wheel and get this business which is now in the dumps out on dry and solid foundation.

If there is any question that you gentlemen want to ask I feel that perhaps I might be able to answer it, because I have spent my life in this business. As I said, I started as a laborer, and I have been in every department in the packing business. There is not one single department, from the mechanical to the executive, that I have not at some time filled. And I don't know of any angle that I have not viewed it from, been actually engaged in, and therefore I feel perfectly competent to answer honestly and fearlessly any question or criticism or inquiry that may be presented.

Mr. KINCHELOE. Mr. Taliaferro, you speak of everybody taking a crack at the packers and interfering with legitimate business by Congress. An unfortunate thing is that a whole lot of people have been taking a crack at Congress. As far as I am concerned, I have been a member of Congress for six years, and I think I am pretty well acquainted with the personnel of this House. I have tried to be a student of legislation. Now, as I said, I have been here for six years, all during the war, and from my observation, I don't believe—there might be some exceptions—but you take the personnel of this House, and I don't believe that with these 435 men representing

districts in which every line of human endeavor is conducted, every man supposed to be fairly and impartially representing the great people of his district, I don't believe that there is a Member of Congress who wants to interfere with legitimate business legitimately conducted. So I don't think you appear before a prejudiced committee, or that this legislation, as reported, will appear before a prejudiced House.

Mr. TALIAFERRO. I don't think I do. I think you are open-minded and looking for information.

Mr. KINCHELOE. Absolutely.

Mr. TALIAFERRO. Yes; I believe that.

Mr. KINCHELOE. I know I am.

Mr. TALIAFERRO. As far as I know this whole committee is, and as far as I know Congress is. But the results are the same, that there has been and there is a great deal of tinkering with business that might have better been left alone.

Mr. KINCHELOE. Well, now, what legislation do you have reference to along that line? What acts have Congress passed in the regulation of public utilities of this country and other business that you think have been a great abuse to the public and a detriment to legitimate business? I am asking you for information. I want to know.

Mr. TALIAFERRO. I don't know of so many things that have been passed, but so many negotiations have been carried on, and everything has been investigated, it has been upset, it has been harassed in every way possible. I have been down here a number of times; this is the fourth or fifth time that I have left my business and come down here on just such inquiries as this, inquiries that have been carried forward by congressional committees of different kinds.

Mr. KINCHELOE. I can remember, in my short life, that when they undertook to regulate the insurance business, the insurance companies in this country, that business went up in the air and said Congress would ruin everybody. I remember when the Interstate Commerce act was being discussed—I don't know that I am old enough to remember when it was adopted, probably I am—but the railroads of the country said that "whenever you undertake to regulate the railroads by such a commission as the Interstate Commerce Commission, why you will force the railroads out of business." When this great legislation of the Department of Agriculture, which I think has done more to help all the people than any branch of our Government, including in it the Bureau of Animal Industry, and all of that, was proposed, they said that that would ruin us. Well, I don't think that there is any fair-minded man but what would agree that the Bureau of Animal Industry has done a great deal in this country, has been of great value to the country. Don't you think so?

Mr. TALIAFERRO. No question about it. I was through that. The opposition from the packers at that time was not the fact of the bill itself, but was the fact that they should be saddled with the expense of condemnations, which amounts to a great deal of money in the course of a year. That was the kind of a thing that we were interested in. Not the fact but what the public should be conserved and in every way protected, but it was the fact that the loss in condemnations, which the packers were powerless to prevent, should not be saddled on them. I appeared before that committee, and that was the stand that we took.

And I will say that there is no department of this great Government of ours that has gotten so close to the heart of the people and so near to the people as the Agricultural Department. I have great respect for it and great affection for it, and I have never, in all my appearances before the Agricultural Committees, found anything but broad-minded men, men who were looking for the truth and doing the right thing.

Mr. TINCHER. Were you opposed to the Interstate Commerce law when it was passed?

Mr. TALIAFERRO. No, sir.

Mr. TINCHER. You thought that the common carriers of the country were at a point where there should be Government regulation?

Mr. TALIAFERRO. Well, I wasn't so very anxious for them to be regulated, because I was getting rebates, and I would just as soon have the rebate. As long as everybody was getting them I wanted to get them. But when they stopped, why I was perfectly satisfied, because then I knew that there wasn't anybody getting anything better than I was.

Mr. TINCHER. That was a really vicious practice, to rebate, wasn't it?

Mr. TALIAFERRO. We didn't look at it so in those days. But it turned out——

Mr. TINCHER (interposing). You would not advocate going back to that, would you?

Mr. TALIAFERRO. But it turned out that those rebates were a boomerang, because there is always some other packer who is getting a bigger rebate than you are.

Mr. TINCHER. There has never been any Government regulation of the packing industry?

Mr. TALIAFERRO. What is that?

Mr. TINCHER. There never has been any Government regulation of the packing industry, except as it was incidental to some other law?

Mr. TALIAFERRO. Well, when the Department of Agriculture was created, there were certain regulations issued by the Secretary that governed the operation of the houses, more along sanitary lines than any other line.

Mr. TINCHER. Well, right on that subject. You would not want to return, would you, to the old system along sanitary lines?

Mr. TALIAFERRO. By no means. We did everything we possibly could to carry out sanitary measures, to operate our own house along sanitary lines, but we didn't have the men who were schooled and educated along that line, as we did afterwards, when we had men who looked for things that we knew nothing of.

Mr. TINCHER. So that was a good law?

Mr. TALIAFERRO. Why, it has proven a very satisfactory law, with the exception that the packers are still paying their losses for condemned live stock, which I think is wrong.

Mr. TINCHER. Now we have a law known as the Federal Trade Commission Act, creating a commission that has power to make certain investigations at Government expense, and report on those investigations, with no responsibility or power for curing the evils that they find. Don't you think that if the Federal Trade Commission had the responsibility upon it to cure the evil that it discloses in terse and tragic language in these reports, that perhaps they would either have

a tendency to not make such reports, or to get rid of a good many evils that they mention there?

Mr. TALIAFERRO. I think that they would kill the patient.

Mr. TINCHER. Your idea is that they would put the packers out of business if they had the regulating of the business?

Mr. TALIAFERRO. Well, I wouldn't go so far as that, Mr. Congressman, but I would say that if the Federal Trade Commission had anything to do with the operation of the plants, judging from the reports that they have made, that the operation of the plants would be increasingly difficult and would add not only to the cost to the consumer, but it would make the business itself almost impossible to run.

Mr. TINCHER. Well, now, would you favor repealing the Federal Trade Commission Act and doing away with that commission?

Mr. TALIAFERRO. No; I would not repeal it if they would confine themselves to doing what, as I understand it, was the original intention, which was to help business rather than to hinder it.

Mr. TINCHER. Well, now, do you think this principle is good, that a Government arm should have the power to make investigation, to report conditions, without some power to cure those bad conditions?

Mr. TALIAFERRO. Well, it appears to me from the Federal Trade Commission's reports, that they have not found anything. They have reported a great many ex parte occurrences that perhaps might, from looking at one side of them, look suspicious to people who do not know the inside, and as far as I can see, being an independent packer and tending to my own business, they have gone out of their way to cast aspersions on the industry, and as far as I can see, have done no good, and in fact, have done harm.

Mr. TINCHER. Now, conceding for the purpose of this question that that is absolutely true, that all the detrimental findings against the packers are unfounded, and that they have that tendency to do harm to the industry, do you think that if they had the responsibility of curing the evils that they disclosed by these reports, that they could have cured those evils?

Mr. TALIAFERRO. They could not have cured any supposed evils that they claimed existed, because in my estimation they never existed. But granting they did exist, there are laws upon the statute books that would have cured them quickly and promptly, and had the commission found those things that they claimed to have found, with evidence enough to have backed up what they said they found, the packers would have been in the penitentiary to-day, because there are laws enough to put them there.

Mr. TINCHER. Well, the Attorney General says that he had an investigation made as the result of these findings, and that his investigators and experts reported to him that there was sufficient evidence to warrant both criminal and civil prosecutions against the packers, but that in the interest of the business and the country in general, he entered into a consent decree with the packers.

Now, what I am trying to get at is this: We have, to the extent that the Federal Trade Commission is authorized to go, some legislation pertaining to the packers. We have, to the extent that the antitrust laws go, some legislation pertaining to the packers. I wondered if the packers are not engaging in evil and vile practices, and the things are not very bright, if it would not be a good time to have a

constructive law that would have a tendency to step in and stabilize things?

Mr. TALIAFERRO. Well then, Congressman, why don't they change their present laws? What is the use of doing any more about it?

Mr. TINCHER. Well, any law passed to regulate the packer and replace that would, of necessity, change any existing laws. For instance, if we passed a law that conflicted in any way with the decree, why, the decree would go glimmering to just that extent, because the Congress still has the power to make the laws. There isn't any such thing as making a law by consent decree in this country.

Mr. TALIAFERRO. But, Congressman, couldn't they change the laws? If Congress felt that the present laws were inadequate, the Sherman antitrust law, the Clayton law, or any of the laws which had been enacted, couldn't they amend those laws so as to cover any supposed or any possible dereliction that might occur in the packer business, as well as any other business?

Mr. TINCHER. Well, I will give you the reason, and I think you will agree with me. That the packing industry is too big an institution and has too many ramifications, too many complexions for any man or set of men to write a law enumerating everything that they can do or can not do, to be properly regulated. Now, secondly, a technical violation of the Federal statute by Armour & Co. would make it a crime, and that could be tried by a jury out there in Chicago. And I think the Government has had some little experience in that, and it did not prove very successful.

Now, I don't understand why, if the packers are disposed to go on and engage in nothing but fair practices, they would not welcome a definite, fixed law on the subject of their industry.

Mr. TALIAFERRO. Well, Congressman, any legislation that might be enacted that would be along constructive lines would be welcomed by Mr. Armour or by Mr. Swift or by Mr. Morris, or any other packer in the country.

Mr. TINCHER. I assume some one is going to do it, but I should think the most valuable testimony that this committee could get would be from some one who would take one of the bills that was pending and explain how it would affect their industry. Now, you have mentioned the Haugen bill. I can't see how the Haugen bill or, as far as that is concerned, the McLaughlin bill, or any of these bills that are pending here, is going to cripple the industry, and certainly if one of those bills is passed the industry will know then what the law is and what they are going to do, and how to do business.

Mr. TALIAFERRO. Well, Congressman, there is no man in the packing business to-day but what knows what is wrong.

Mr. TINCHER. Yes.

Mr. TALIAFERRO. Now, if he is wrong he should suffer for it. If he is right he should be let alone. Now, there is nobody in this Congress or in the Federal Trade Commission or anywhere else that has put anything on the packers and said, "You are guilty." It can not be done. Now, they have got first to prove that they are guilty, and it can not be done, because they are not guilty.

Mr. TINCHER. Well, now, I will be frank with you. I can not understand how any well-informed, good business man who is at all familiar with the history of the Five Big Packers and their different troubles and their different organizations can place his unqualified stamp of approval upon their past conduct.

Mr. TALIAFERRO. Their past conduct, things that have passed, that is true. There have been in all businesses in times past things that have looked legal and were legal at the time, which have afterwards been determined by our legislators to be illegal. Well, now, I believe that the packers are a law-abiding body of men. I don't believe they want at any time to do anything against the laws of this country.

Mr. TINCHER. Well, we do; just on that proposition, while you were accepting rebates from the railroad company you thought it was all right?

Mr. TALIAFERRO. That was legal at the time, too.

Mr. TINCHER. It was legal?

Mr. TALIAFERRO. Yes.

Mr. TINCHER. But can you conceive now of anything more detrimental to good government and fair dealing and fair play among the people of this Nation than the common carriers of this country granting rebates to a class of men to build up their business and destroy another class of business?

Mr. TALIAFERRO. At the time that those rebates were given it was perfectly good business.

Mr. CLAGUE. That does not answer his question at all.

Mr. TALIAFERRO. Now, when we look at it, we find that it was not the proper way to do business.

Mr. TINCHER. Oh, well, when they settled personal difficulties by the duel I suppose at those times they thought that was the best way to settle those difficulties.

Mr. TALIAFERRO. Undoubtedly.

Mr. TINCHER. But the law came along and said that that was unlawful.

Mr. TALIAFERRO. Then they stopped.

Mr. TINCHER. Yes. Now, we can not say that because those things happened in the past we can not take them into consideration in passing a law, because everything that this committee will ever get notice of will have been in the past. We can not have any notice of what these packers are going to do in the future. They have been pretty successful in the past in jumping from one method and tactic and organizing a new controlling body to do whatever was attacked. I don't know, but it seems to me that if they were going ahead on a fair proposition and wanted the people to know that they were, that it is about time that they would say, "We want a reasonable, constructive law for our Government."

Mr. TALIAFERRO. There I am with you body and soul, Congressman, because anything that is constructive is right, and I am with you.

Mr. TINCHER. Well, then I will recommend to you for your earnest consideration the McLaughlin bill and the Haugen bill and the Williams bill and the Anderson bill, and you give them careful study, because I know that not one of these gentlemen is seeking to destroy this great industry, and they are in the body that they are in to-day by reason of their reputation at home for being great constructive men.

Mr. TALIAFERRO. That is what we have you here for, Congressman.

The CHAIRMAN. Any more questions to be asked?

Mr. VOIGT. Now you say that you haven't any doubt that the big packers would welcome constructive legislation, as you call it?

Mr. TALIAFERRO. Yes, Congressman.

Mr. VOIGT. That being true, why aren't these gentlemen here to recommend some legislation?

Mr. TALIAFERRO. Well, I haven't seen any legislation that I thought was constructive, yet, Congressman.

Mr. VOIGT. No; but I say that you say the packers would welcome it.

Mr. TALIAFERRO. Yes.

Mr. VOIGT. Why, if so, don't they come here and make their wishes known?

Mr. TALIAFERRO. Well, I think they are here. I see most of them here. I believe they are here.

Mr. VOIGT. But they are not here recommending any legislation. They are opposing all legislation, but are not recommending any.

Mr. TALIAFERRO. Well, the legislation that I would suggest is to strike out everything from the enacting clause in all of the bills.

Mr. VOIGT. You think that would be constructive legislation?

Mr. TALIAFERRO. I think so.

Mr. VOIGT. Well now, you said that you would agree on constructive legislation, in answer to a question by Mr. Tincher. Now have you any suggestion to make as to what legislation should be passed?

Mr. TALIAFERRO. Well, if legislation is necessary, I would suggest that the Haugen bill comes nearer to being constructive than any of the other bills.

Mr. VOIGT. Well, don't qualify it now by saying "if any legislation is necessary." I am asking you now whether you have anything to suggest?

Mr. TALIAFERRO. Have I?

Mr. VOIGT. Yes.

Mr. TALIAFERRO. I have nothing to suggest that legislation could correct.

Mr. VOIGT. Then you are not in favor of any legislation on this subject, Mr. Taliaferro, are you?

Mr. TALIAFERRO. I don't think it is necessary.

Mr. VOIGT. You don't think it is necessary?

Mr. TALIAFERRO. No.

Mr. VOIGT. You know that the Big Five at Chicago give information to each other as to the qualities and kinds of live animals purchased by them?

Mr. TALIAFERRO. I don't know, but I should think they would, because I don't see how business could be operated without it.

Mr. VOIGT. Do you think that it is customary for men who are competitors in a certain line of business to give each other information as to the details of their business?

Mr. TALIAFERRO. I think all business has to do that more or less to survive.

Mr. VOIGT. Do you, in your business, give information to any competitor?

Mr. TALIAFERRO. I certainly do.

Mr. VOIGT. What is the nature of the information?

Mr. TALIAFERRO. I always tell them how many hogs I buy, or how many cattle I buy. They all know it, because it is published; but if a man asks me how many I bought I have nothing to conceal. I have nothing to conceal in my own business from anybody.

Mr. VOIGT. Do you make a daily or weekly report to your competitors?

Mr. TALIAFERRO. I do not.

Mr. VOIGT. Do you make such a report in writing?

Mr. TALIAFERRO. I do not make any report to any of my competitors, but any competitor who asks me for information I gladly give it to him.

Mr. VOIGT. Don't you think that it calls for suspicion that these gentlemen make reports to each other, in writing, at stated times?

Mr. TALIAFERRO. If a man is of a suspicious mind, I should say yes.

Mr. VOIGT. Well, now, you haven't seen the necessity for that in your business?

Mr. TALIAFERRO. I might on an occasion; there might be times when it would be of mutual benefit, and I might do so. I never ask for the information except for my own benefit, and I never give any man any information except when he asks for it.

Mr. VOIGT. You have never seriously considered the proposition of making weekly reports of your business to your competitors and having them make the same to you?

Mr. TALIAFERRO. I never do, but if a man asks me for it I will give it to him.

Mr. VOIGT. You are giving information to competitors by word of mouth, possibly?

Mr. TALIAFERRO. I give it not only to my competitors, but to anybody that asks for it that has interest enough in it to ask.

Mr. VOIGT. Well, now, let us go into some other line of business. Suppose there are a dozen wholesale grocers in the city of Washington and one of these grocers would go to the other and ask him to make a written report to him once a week of the amount of his purchases, the character of the goods purchased, the price paid for them, and the character of sales and the amount obtained. Do you think that the other nine grocers would furnish this information?

Mr. TALIAFERRO. I don't think so.

Mr. VOIGT. Why not?

Mr. TALIAFERRO. Because I don't think it is any of their business.

Mr. VOIGT. Well, now, then, why should it be different in the packing industry than it is in the grocery industry?

Mr. TALIAFERRO. Because a man never asks that question. A man asks you how many hogs you bought, or how many cattle you bought, or some information that he wants, but he doesn't go into the details of your business.

Mr. VOIGT. But the packers furnish information of the exact number bought.

Mr. TALIAFERRO. That is public.

Mr. VOIGT. They furnish that information in each class, and the amount bought.

Mr. TALIAFERRO. That is public information, Congressman. Everybody can get that. I can get it without going to Armour or to Swift or to Morris, and know just what they buy every day.

Mr. VOIGT. Now, if that is public information, then why do these packers go to the useless task of furnishing this information to each other in writing?

Mr. TALIAFERRO. You will have to ask those packers. I don't know.

Mr. VOIGT. Well, I am asking you now.

Mr. TALIAFERRO. I don't know that they do.

Mr. VOIGT. Well, assuming they do, don't you think that it is a useless performance, from your standpoint?

Mr. TALIAFERRO. It would be for me.

Mr. VOIGT. You would not admit that these gentlemen go through a useless performance, would you?

Mr. TALIAFERRO. I would not admit from my standpoint. I don't know why they would ask the information. And I don't know that they do ask it.

Mr. VOIGT. Do you know the five packers, so far as the percentage of their purchases are concerned, as among themselves, have stood stationary for many years back?

Mr. TALIAFERRO. Well, from the nature of the business it must be so, although I don't think that it is actually so. It may be approximately so, because one man is not going to let another man get more than he would, because if he does this business would outgrow him. Each man is competing and trying to get his full proportion of the live stock that comes and that he can handle.

Mr. VOIGT. Then it is your theory that the five big packers, if they are operating under usual economic and business laws, must remain stationary for many years to come?

Mr. TALIAFERRO. They would not remain stationary, but they would probably see that the other fellow did not get more than they did.

Mr. VOIGT. Well, now, if each one of the five sees to it that the other fellow gets no more, then they are bound to remain stationary, are they not?

Mr. TALIAFERRO. Not stationary. It depends entirely on the amount of stock available. If there are 100,000 head of hogs they would get more than if there were 20,000 head of hogs.

Mr. VOIGT. No; what I refer to is the percentage of these five packers among themselves. If there are 50,000 hogs and one packer gets 30 per cent, he would get 15,000, and if there were 100,000 hogs he would get 30,000. But what I am referring to now is the percentage among themselves. Has that ever struck you as being abnormal?

Mr. TALIAFERRO. No; it has not. It strikes me as being a business proposition, and that each man figures on getting the amount that he needs. I know in our own business, suppose the receipts for the day shoud be 10,000 hogs. Now there are three large independent packers up there. I would say that we would probably try to get anywhere from 25 to 35 per cent. We would think that we would be entitled to about one-third of the receipts. The others would feel that way. If one man got 50 per cent of the receipts, why we would feel that he was trying to hog it, and the next day I would try to get 50 per cent.

Mr. VOIGT. Now, assume that these packers have remained at this figure among themselves for the last 30 years, would that strike you as unusual?

Mr. TALIAFERRO. Not at all, not at all.

Mr. VOIGT. It would not?

Mr. TALIAFERRO. No.

Mr. VOIGT. Then you think it is absolutely normal that these five concerns, as among themselves, should and have almost run a neck and neck race?

Mr. TALIAFERRO. They will run it as long as the business exists.

Mr. VOIGT. Now, let me ask you this question. There was a time in the packing industry when one outstripped the other, was there not?

Mr. TALIAFERRO. Well, as far as I can see they have been trying to outstrip each other ever since I have been in the business.

Mr. VOIGT. Well, Swift to-day is about three times the size of Cudahy, roughly speaking.

Mr. TALIAFERRO. Well, I should imagine pretty close to that.

Mr. VOIGT. Now when, in your judgment, in the packing industry did Swift advance beyond Cudahy?

Mr. TALIAFERRO. Why, he always has been larger than Cudahy. He started in business before Cudahy.

Mr. VOIGT. There was a time when Swift wasn't any larger than Cudahy is now, wasn't there?

Mr. TALIAFERRO. Oh, yes.

Mr. VOIGT. Well, now, there must have been a time when one overtook the other.

Mr. TALIAFERRO. Well, Swift was a good deal larger than Cudahy is now before Cudahy even started in business.

Mr. VOIGT. Then you think there is absolutely no possibility that the Cudahy packing business may become at some time as large as the Swift business?

Mr. TALIAFERRO. Oh, I don't say that there isn't any possibility of it, but I should say that the country would have to be very much larger to enable them to do it.

Mr. VOIGT. Well, now, they have been going on this way for 30 years, and there isn't a difference of 1 per cent among these gentlemen; that is, among themselves. Now, if that continues for another 30 years, then, according to your theory, they will be exactly where they are to-day?

Mr. TALIAFERRO. I think that that is the only way that the packing business will ever be operated in this country. That each packer will try to get all that he can get. The larger a packer is the more of the territory he covers. If a man has got a branch house in a town that only has trade enough for one branch house another man is not going to put a branch house in there, because there is no trade there for him.

Mr. VOIGT. Then you think it is all right for five competitors in business to stay exactly where they are for 30 years and have nothing wrong?

Mr. TALIAFERRO. I think approximately, yes. There may be some that outstrip the others. They haven't all kept the same percentage, Congressman.

Mr. VOIGT. But, my dear sir, I think the figures show that these five big packers have stood at this same percentage for all these years.

Mr. TALIAFERRO. I beg your pardon, they have not stood at the same percentage, because there have been new ones coming in.

Wilson has come in, for instance. The Cudahys came in after Swift.

Mr. VOIGT. Yes, but Wilson was the successor to Sulzberger.

Mr. TALIAFERRO. Yes, but he has grown very considerably since he came in. He has made wonderful strides since he has entered the packing business.

Mr. VOIGT. You think that his percentage is bigger than was the percentage of the stock of Sulzberger?

Mr. TALIAFERRO. I think that the amount of business that he has done is larger than Sulzberger's.

Mr. VOIGT. I am not talking about the amount of business. They have all done a larger business. But I am talking now about the percentage among themselves.

Mr. TALIAFERRO. I think his percentage is very much greater; in fact, I know it is.

Mr. VOIGT. Have you seen any figures on it?

Mr. TALIAFERRO. Yes, I have. I have seen only the reports that come out in his yearbook. That is all I look at. I see the yearbooks of all the packers, showing the amount of business they do.

Mr. VOIGT. Were you here this morning when this 50-50 agreement at Denver was talked about, between Swift and Armour?

Mr. TALIAFERRO. Yes, I was here.

Mr. VOIGT. What do you think about that?

Mr. TALIAFERRO. Well, I think that is perfectly natural.

Mr. VOIGT. You see nothing wrong about that?

Mr. TALIAFERRO. No, the houses were about the same capacity. They would naturally feel that they ought to have about the same amount of business. Their overhead is about the same; their expense is about the same. A man would naturally feel that he ought to have as much as is possible, in accordance with his capacity. Now, as I understand at Denver—and I know Denver pretty well—the houses at that time were about the same capacity. There was very little difference between them. Naturally, they would want about half of the receipts, which is perfectly natural.

Mr. JONES. Now just there, do you think it is possible for them to stay at those same percentages without having an agreement among themselves as to the amount they are going to pay for stock, before they bid on it?

Mr. TALIAFERRO. Yes, Mr. Jones.

Mr. JONES. You don't think they have competitive bidding among themselves?

Mr. TALIAFERRO. Yes; they have competitive bidding among themselves.

Mr. JONES. You know they have?

Mr. TALIAFERRO. I know they have. If it was not so, I would be buying hogs at a profit to-day instead of a loss.

Mr. JONES. What is the use of their having competitive bidding if they are going to parcel it out among themselves according to more or less fixed percentages?

Mr. TALIAFERRO. Because there are too many competitors in the field.

Mr. JONES. I mean as between themselves, these men that parcel it out; couldn't they just get together and agree as to the price they

were going to pay for animals that day, and agree not to bid against each other and thus fix the price at a lower level?

Mr. TALIAFERRO. Oh, such a thing as that might be possible, but I don't believe it could be possible; no.

Mr. JONES. Well, you couldn't well change the fixed percentage without having that agreement, could you?

Mr. TALIAFERRO. Oh, you could buy half and half of the receipts and still be in great competition with each other. The matter of buying half of the receipts does not eliminate competition, because there is competition all the time.

Mr. JONES. Well, suppose the amount of stock in a certain locality adjacent to one of these packing houses, or where two of these packing houses were in competition, two branches of two of the big packers, was not sufficient for both of them to have it when they wanted. Then naturally if they did not have an agreement beforehand, they would run the price of stock up there, wouldn't they?

Mr. TALIAFERRO. Not necessarily, because if they could buy it cheaper elsewhere they would not buy it there.

Mr. JONES. Well, if they buy the stock that is to be bought there, however, they would not make the same bid on this stock without a previous agreement, would they?

Mr. TALIAFERRO. Oh, no; they seldom make the same bids on products.

Mr. JONES. Well, they are substantially the same, aren't they?

Mr. TALIAFERRO. Well, if the quality is the same, why the only difference would be in a man's idea of how much different cargoes or a load would dress. One man might think it would dress 56 per cent and the other might think it would dress 58 per cent, and there probably would be 25 cents a hundred difference in the price they would pay.

Mr. JONES. They never have bid where they run their stock up considerably?

Mr. TALIAFERRO. As a usual proposition, Mr. Jones, a packer bids what he thinks the product is worth.

Mr. JONES. All he thinks it is worth?

Mr. TALIAFERRO. Well, he sometimes may be forced to raise his bid. He wants to buy it as cheap as he can. And he will not buy it any higher unless somebody else or some other market comes in and bids higher.

Mr. VOIGT. Will you let me interrupt?

Mr. JONES. Go ahead.

Mr. VOIGT. Now, you say if the two plants of two packers at an important point are about the same size they would each take 50 per cent of what is offered?

Mr. TALIAFERRO. They will try to each take 50 per cent of what is offered.

Mr. VOIGT. Now, let me read you again from this Armour letter that I referred to this morning. Mr. Armour, writing to his uncle, says:

> Swift plant, from what I hear, and from the little I saw of it, is far ahead of ours both as to the size and condition. Of course, as you know, everything here is done on a fifty-fifty basis, and with facilities we have it is almost impossible to keep up this ratio.

Now then, under normal economic conditions, wouldn't the Swift plant take more than 50 per cent of the offerings in that market?

Mr. TALIAFERRO. Under normal conditions?

Mr. VOIGT. Yes.

Mr. TALIAFERRO. Not if their plants were about of equal capacity.

Mr. VOIGT. But he says in his letter here that "the Swift plant, both as to size and condition, is ahead of ours."

Mr. TALIAFERRO. But in a proposition of that kind it may be possible that Swift's house may not be able to handle any more.

Mr. VOIGT. But he did not say in this letter that they were not able to handle it. He said it was a hard thing for them to keep up the fifty-fifty because the Swift plant was so much larger.

Mr. TALIAFERRO. Did Armour try to keep up to the fifty-fifty, and try to hold up his end of the agreement?

Mr. VOIGT. Yes.

Mr. TALIAFERRO. He tried to keep up?

Mr. VOIGT. But why couldn't the other fellow get more than 50 per cent when his plant was better and larger? That is what I would want to know.

Mr. TALIAFERRO. Well, I would ask Mr. Swift.

Mr. VOIGT. Well, I am asking you.

Mr. TALIAFERRO. Well, I would ask Mr. Swift or Mr. Armour. I wasn't running the plant. I wouldn't know whether they did or did not buy more or less. I wasn't there. I didn't have anything to do with it. Now the question you ask is a question that should be asked of the man that did it.

Mr. VOIGT. But you have testified here, my dear sir, that you don't see anything unusual in this arrangement. Now I am asking you if you have changed your mind?

Mr. TALIAFERRO. I have not changed my mind.

Mr. VOIGT. Then in your judgment it doesn't make any difference how big the Swift plant was at that point, or how big the Armour plant was, they would always divide up fifty-fifty?

Mr. TALIAFERRO. Not necessarily. They would try to keep their overhead down, and a man would try to get every hog he could use, and every head of cattle. And if they divided it fifty-fifty, as long as they could keep their overhead down and their plant down, why I don't think they should not do it.

Mr. TEN EYCK. May I ask a question right here? If the policy of Mr. Cudahy's management should change, and they decided that they wanted to be as large as Swift, which is liable to happen at any time if an ambitious man got in control, and he started out to do that, what effect would that have upon the markets where Swift and Cudahy purchase in the stockyards?

Mr. TALIAFERRO. Well, if they were both bidding with each other unduly they would force the prices up. But they would not buy there if they could buy them cheaper elsewhere.

Mr. KINCHELOE. Mr. Taliaferro, if a practice was resorted to by the packers whereby they had a room rented, the rent of which was paid for in proportion to the amount of dressed beef produced by each one of them, and they had an expert man there, and they were to meet weekly, and at this meeting divide the territory and the volume of business that was to be done in each, and providing a

penalty for those who violated it, do you think that that could be in the interest of the public at large?

Mr. TALIAFERRO. In a general way, yes.

Mr. KINCHELOE. Well, if it was not going to help the packer there by dividing this territory and the volume of this business, where they could buy the stuff from the producer cheaper, why would they lay off this territory and fix this business in exact proportions?

Mr. TALIAFERRO. I don't know that they do.

Mr. KINCHELOE. I am saying: "If that would happen."

Mr. TALIAFERRO. Why would they?

Mr. KINCHOE. No; would you approve of that kind of a business, these five fellows having a room to meet every week and have an expert there to lay off the territory and the volume of business that is to be done by each one in these territories, and provide a penalty for any of these packers that would violate or encroach over on the territory of the other, or buy up in excess of his proportion of the amount of business, do you think that is a straight, open and above board business?

Mr. TALIAFERRO. No, I don't.

Mr. KINCHELOE. You would not approve of that kind of practice, would you, Mr. Taliaferro?

Mr. TALIAFERRO. No, I would not.

Mr. KINCHELOE. Well, don't you think that if that practice does prevail, has prevailed and is likely to prevail, that it would be a very salutary thing to have an act passed by the Congress of the Nation to forbid those things?

Mr. TALIAFERRO. Yes, I think an act of Congress was necessary to prevent a thing of that kind occurring; I think it would be a good thing to do. But I don't think that it is possible to do it. It might have been in times past, Congressman, that such things as that might have happened, but I don't think it is possible in these days.

Mr. KINCHELOE. Well, now you say it is not possible?

Mr. TALIAFERRO. No, I don't think so.

Mr. KINCHELOE. If, as a matter of fact, you and I and three other packers were to control 84 per cent of the business that went into interstate commerce in a year—you say you don't think it is possible to happen—what is the reason we could not get together in that arrangement; what is the reason we could not absolutely control the market. How much effect on the market would 16 per cent of the independent packers have upon what we do in collusion in a matter of that kind?

Mr. TALIAFERRO. Well, in the first place they don't do 84 per cent of the business.

Mr. KINCHELOE. Of interstate commerce business?

Mr. TALIAFERRO. Yes.

Mr. KINCHELOE. Well, now, why do you say that? I want to know, to get at what you base that opinion on, because the report of this Federal Trade Commission says that they do.

Mr. TALIAFERRO. There is too much local killing. In Detroit, alone, we kill 1,000,000 hogs a year, and there isn't any big packer in that town.

Mr. KINCHELOE. Well, then, that doesn't go interstate.

Mr. TALIAFERRO. Oh, yes, I beg your pardon, 80 per cent of that goes interstate. The hogs come into Detroit, and we buy the hogs all

over the country; they come into Detroit, and the large percentage of it goes out again, but it is slaughtered in Detroit. Well, now, no big packer has any packing house there. Of the cattle—of the dressed beef that is sold in the city of Detroit, 66 per cent of it is killed by local people, and the small packers that haven't any Government inspection at all.

Mr. KINCHELOE. Granting that that is true, but you are speaking of one place.

Mr. TALIAFERRO. Well, take other places for instance. Take Baltimore, or we will take Buffalo. There is not a big packer in Buffalo. The big independent packers are there, but there is none of the Big Five there. Of all the stock that is slaughtered in Buffalo, there is not a pound of it slaughtered by the big packers.

Now, in reference to this bugaboo about their shipping 84 per cent, Congressman, why it is misleading, and it looks bad on paper, but there is nothing to it when you get down to the bottom of it.

Mr. KINCHELOE. Well now, why should they be likely to be mistaken about that matter, taking the national view of it?

Mr. TALIAFERRO. The big packers don't cut any figure in Detroit.

Mr. KINCHELOE. I am not talking about that, I am talking about the whole country for a year.

Mr. TALIAFERRO. But take Buffalo, take Detroit, take Pittsburgh, take Baltimore, or Minneapolis, or Philadelphia or Cleveland—well, they have a little house in Cleveland. Swift has a house in Cleveland.

Mr. KINCHELOE. They not only fix the per cent, but they give the towns in the report. I have it right here before me.

Mr. TALIAFERRO. I know the report, Congressman.

Mr. VOIGT. If you will pardon me for a minute. On page 106 of part 1 of the Federal Trade Commission's Report you will find a table which is headed: "Interstate slaughterers. Big Five. Proportion of number of head slaughtered by kinds, 1916." Now, that table shows that of the total cattle slaughtered in interstate commerce the Big Five had 82.2 per cent. Of calves, the Big Five has 76.6 per cent; sheep, 86.4 per cent; and hogs, 61.2 per cent. And it is stated here that "This is from the report of 201 interstate slaughterers taken together." There can not be anything wrong about those figures.

Mr. TALIAFERRO. What towns were those? Didn't Mr. Smith answer that?

Mr. VOIGT. That takes in every town in the United States. It takes in all animals that are slaughtered in interstate traffic.

Mr. TALIAFERRO. Well, you say they took 82 per cent of the cattle?

Mr. VOIGT. Eighty-two and two-tenths per cent.

Mr. TALIAFERRO. Well, what percentage of that is the total slaughter?

Mr. VOIGT. Why, the total slaughter would be 100 per cent, and all other packers in the country would slaughter the difference, or 18.7 per cent.

Mr. TALIAFERRO. My understanding is that out of the 100,000,000 of live stock slaughtered in the United States that the big packers slaughter about 62 per cent.

Mr. VOIGT. Well now, this refers only to the interstate slaughter. Not to the local slaughter. The fact that a farmer out West kills a hog, that doesn't very much affect the interstate trade.

Mr. TALIAFERRO. Oh, no. But 62 per cent of the 100,000,000 head of live stock slaughtered in the packing houses is slaughtered by the big packers, I understand. My understanding is that the big packers slaughter 62 per cent of the live stock.

Mr. VOIGT. Well, the figures I have given you—and I haven't any reason to doubt them—are for the interstate slaughter. Of course, there is a great deal of stock slaughtered within the limits of each State.

Mr. TALIAFERRO. Well, the stock that is slaughtered in Detroit is slaughtered by local killers. The big packers don't cut any figure there.

Mr. MCLAUGHLIN of Nebraska. A little while ago you were talking about the subject of rebates. I would like to ask, if I may, whether at the time the rebate practice was in vogue you suggested to any legislative body that the rebate practice should be abolished by law?

Mr. TALIAFERRO. I never had an opportunity.

Mr. MCLAUGHLIN of Nebraska. Do you know of any other packer that suggested that?

Mr. TALIAFERRO. No; I do not.

Mr. MCLAUGHLIN of Nebraska. Did it occur to you before there was talk from outside sources of the law to abolish rebates, that it was a wrong and unfair practice and should be done away with?

Mr. TALIAFERRO. Well, as we looked at it afterwards, Mr. McLaughlin, it was; we could easily see where inequalities and injustice had been very evident.

Mr. MCLAUGHLIN of Nebraska. Yes; I understand that as you looked at it afterwards.

Mr. TALIAFERRO. Yes.

Mr. MCLAUGHLIN of Nebraska. But what I am asking you now is if before a law, a corrective law was talked of, when you were generally indulging in the practice, did it occur to you then that it was wrong, and that it should be abolished?

Mr. TALIAFERRO. No.

Mr. MCLAUHGLIN of Nebraska. It did not?

Mr. TALIAFERRO. No; it did not occur to us until—oh, until after the matter began to be agitated and we really found out how little we were getting compared to the other fellows who were getting so much more.

Mr. MCLAUGHLIN of Nebraska. Well, then, and in that particular case it is a fact that a constructive law was suggested and passed by men outside of that business; that they discovered the evil and conceived the idea of correcting it?

Mr. TALIAFERRO. Yes, Mr. McLaughlin.

Mr. MCLAUGHLIN of Nebraska. That is true, isn't it?

Mr. TALIAFERRO. Yes; but the packers were not the only ones that were getting rebates. Everybody was getting the rebate.

Mr. MCLAUGHLIN of Nebraska. Yes, sir.

Mr. TALIAFERRO. And everybody carried their passbook in their pocket, and everybody was riding on a pass. I went in a Pullman car from Omaha to Denver. The Pullman car was crowded, and only one man paid his fare.

Mr. McLAUGHLIN of Nebraska. Yes; I understand. That does not paint the condition that we are talking about at all. The suggestion for the correction of rebates, as well as for the evil in connection with the issuing of passes, was made by men in legislative bodies that were outside of those particularly affected by the business? And that was corrected by these men in legislative bodies that were outside of those particularly affected by the business?

Mr. TALIAFERRO. And I thank you for it.

Mr. McLAUGHLIN of Nebraska. Yes, sir. Now this question: Can not you conceive of the possibility of a condition where men engaged in the business might not think of or might not see other evil practices, not intended to be evil by them, but that work unfair conditions on the public, where again men outside, who go through a long series of hearings of this kind and get the testimony from every angle might also discover some other evil practices, and propose and pass a constructive law that you thought was unnecessary at the time, but after 10 years or so you will say, "Well, that was a mighty fine thing. Those fellows knew more about that than I did"?

Mr. TALIAFERRO. Yes, sir; I certainly would agree with you, Congressman McLaughlin, and would agree that such a thing as that is possible. There is nothing impossible that I know.

Mr. McLAUGHLIN of Nebraska. Well, then, if such a thing as that is possible, then there is the further possibility that your suggestion a while ago with reference to all of these bills, to strike out everything after the enacting clause, would completely defeat all constructive legislation that men might have in mind?

Mr. TALIAFERRO. If these were constructive legislation I should say that I was wrong, but I consider them not constructive legislation, but that they would be disastrously destructive.

Mr. McLAUGHLIN of Nebraska. Well, of course, that is a matter of personal opinion.

Mr. TALIAFERRO. Well, my opinion is worth something, now, if I do say it myself. I have been in this business longer than you gentlemen have been on earth, and I know something about it.

Mr. VOIGT. Have you read the report of the Federal Trade Commission on packers, Mr. Taliaferro?

Mr. TALIAFERRO. I have read some of it, Mr. Voigt, not all of it; but I have read enough of it to be fairly well posted on some of the items that they mention.

Mr. VOIGT. Well, now, in that report they are accused of being in combination.

Mr. TALIAFERRO. In combination?

Mr. VOIGT. Yes.

Mr. TALIAFERRO. Well, that is an accusation that has not been proven. Now, you can accuse anybody of anything, but you have got to prove it.

Mr. VOIGT. Well, in your judgment, did you see anything in that report that would lead you to think that they were not in combination?

Mr. TALIAFERRO. There are things in that report that would naturally make a man feel that there was something in their report. Not knowing all of the surrounding occurrences or all of the testimony, but just taking ex parte extracts from it, I can not see that I would be convinced that there was any actual basis for their making that assertion.

Mr. VOIGT. Do you think that they have been in combination?

Mr. TALIAFERRO. I think they have never been in what is known as a combination. But I think they had an understanding. But that is some time ago. I haven't noticed anything for 8 or 10 years that I would consider from my point of view, and I have watched that pretty closely, too, but I haven't seen anything that would indicate to me that they were in a combination. There was a time that I did think so, but I thought so from the actions that came up in the business in competition with them and in connection with them, but I haven't noticed it for 8 or 10 years.

Mr. VOIGT. This fifty-fifty letter does not arouse any suspicion in your mind about combination?

Mr. TALIAFERRO. No; it would merely be a business proposition, as far as I could see. I know that if I was perfectly independent I would do the same thing. I know that I won't let another packer in Detroit get any more live stock than I do. I haven't done it yet.

Mr. VOIGT. Now, how long has your institution existed in Detroit?

Mr. TALIAFERRO. Since 1869.

Mr. VOIGT. Started up in a small way?

Mr. TALIAFERRO. Yes; it started up in a small way.

Mr. VOIGT. How many competitors have you there?

Mr. TALIAFERRO. Well, we have three large ones in Government inspection. Then there are numerous smaller ones.

Mr. VOIGT. Now, let us confine ourselves to these three. When did the other two competitors start in business?

Mr. TALIAFERRO. Well, I don't know the exact dates, but I think one of them started in 1878 or 1879, and the other one I think in 1895 perhaps. My company is the original G. H. Hammond Co. That is the one that Mr. George H. Hammond started just as a butcher shop and a slaughterhouse.

Mr. VOIGT. What are the names of the other two places?

Mr. TALIAFERRO. The Sullivan Packing Co., and Parker, Webb & Co. And we are the third.

Mr. VOIGT. You are the largest of the three?

Mr. TALIAFERRO. No; Parker, Webb & Co. and ours are about the same. Our capacity is about the same. They are a little larger than we are. The Sullivan Packing Co. is about a half of either of us two.

Mr. VOIGT. Now this Parker-Webb concern started in business a great many years after you did?

Mr. TALIAFERRO. Yes; they started in business also as a butcher shop.

Mr. VOIGT. And they are now about the same size that you are?

Mr. TALIAFERRO. About the same, yes. I think they have increased their capacity a little.

Mr. VOIGT. Well, now, there is a case that is out of line with the Big Five. There is a case where you did not grow up on equal percentages, isn't there?

Mr. TALIAFERRO. Well, I couldn't say that that was so exactly, because they have in that time added a little more capital, and they have done a little bit more business, they have increased their business faster than we have. The town has grown faster, and they were a little bit more ambitious than we were, but we kept our own about in proportion, as far as we could.

Mr. VOIGT. But figuring by percentages now, that concern grew faster than you did?

Mr. TALIAFERRO. Yes, a little, but not unusually so, or not unreasonably so, because we tried to do as well as we could.

Mr. VOIGT. Well, now, the fact is that that concern started in with nothing many years after you did, and now occupies a position on a par with you?

Mr. TALIAFERRO. Yes. They may be, in five years from now, a little bit ahead of us, but not if we can help it, they won't.

Mr. VOIGT. Well, we understand that. But, now, according to your theory that you have advanced in regard to the Big Five running neck and neck, you and this concern are going to be just where you are now, 10 years from now. Do you believe that is so?

Mr. TALIAFERRO. I would hate to think so.

Mr. VOIGT. How?

Mr. TALIAFERRO. I say, I would hate to think so.

Mr. VOIGT. But the Big Five, now, have been running a neck-and-neck race for all these years, and you think that is all right.

Mr. TALIAFERRO. Well, they have not been running a neck-and-neck race. Swift has outstripped Armour quite a little.

Mr. VOIGT. Well, not according to the figures.

Mr. TALIAFERRO. Well, they do more business.

Mr. VOIGT. Well, the evidence here shows that they maintain about the same percentage among themselves. Now if we apply that rule to your own situation, then you and this rival concern are going to remain about just where you are?

Mr. TALIAFERRO. Well, they won't get any bigger than we are if we can help it.

Mr. VOIGT. Well, I understand that they won't get any bigger if you can help it.

Mr. TALIAFERRO. No.

Mr. VOIGT. But, according to some hidden law of economics, you are going to run neck and neck now with this other rival firm in Detroit, according to this theory that you have advanced concerning the Big Five.

Mr. TALIAFERRO. Well, if they put up a chill room, we will put up a chill room; if they buy more hogs, we will buy more hogs; we will try and keep them where they belong. We will certainly not let them get our trade.

Mr. VOIGT. Then your explanation about that, applied to the Big Five, is that if they tried to do that thing that you are talking about each one has succeeded so admirably they have not varied 1 per cent for a great number of years?

Mr. TALIAFERRO. But 1 per cent in an enormous business means a good deal of difference. But I should imagine that they have varied more than 1 per cent.

Mr. VOIGT. I can not find that they did.

Mr. TALIAFERRO. Well, if they did, why, they kept a pretty even race, that is all I can say.

Mr. MCLAUGHLIN of Nebraska. Are you through, Mr. Voigt?

Mr. VOIGT. Yes.

Mr. MCLAUGHLIN of Nebraska. I just want to follow one question that Mr. Voigt asked a little while ago and that you answered. I believe that you said that you did believe some years ago, from some

things that were brought to your attention, that there were evidences of combination among some of the packers?

Mr. TALIAFERRO. I thought so.

Mr. MCLAUGHLIN of Nebraska. You thought so?

Mr. TALIAFERRO. I had nothing to prove it, but I thought so.

Mr. MCLAUGHLIN of Nebraska. But you thought so?

Mr. TALIAFERRO. Yes.

Mr. MCLAUGHLIN of Nebraska. Some years ago?

Mr. TALIAFERRO. Yes.

Mr. MCLAUGHLIN of Nebraska. And you think that has now been done away with?

Mr. TALIAFERRO. I haven't noticed it for 8 or 10 years.

Mr. MCLAUGHLIN of Nebraska. You didn't like that at that time, did you, Mr. Taliaferro?

Mr. TALIAFERRO. No, I did not.

Mr. MCLAUGHLIN of Nebraska. No. Now, if it should be discovered that there is still such a combination, then you think something ought to be done about it, don't you?

Mr. TALIAFERRO. Oh, yes, I should think so.

Mr. MCLAUGHLIN of Nebraska. All right.

Mr. TALIAFERRO. But there are no evidences that I can find. If there is any evidence of combination, or any depressed prices, why they would be buying stuff at a profit instead of at a loss. They are buying stuff at a loss all the time. They have lost money for three years, and the way it is going now we will lose for a year or two more unless things suddenly change very materially, and what has done that has been competition. Everybody is grabbing for everything in sight, and as long as that is so you are just forced to pay so much for your product that you can not sell it and make a profit.

Mr. MCLAUGHLIN of Nebraska. I think we will pass a good constructive law here that will help allay conditions.

Mr. TALIAFERRO. I think if you will enact a law that will help the packers to make some money, that is, in my opinion, the best thing you can do. That is what I need more than anything.

The CHAIRMAN. Isn't it true that pretty nearly everybody is losing money at this time, I mean in business?

Mr. TALIAFERRO. Well, the packers have liquidated so very drastically, much beyond anybody's idea. The business has been very disastrous and it is an exceedingly critical state just now.

The CHAIRMAN. Well, you are an independent packer, aren't you, Mr. Taliaferro?

Mr. TALIAFERRO. Yes.

The CHAIRMAN. Now what is there to the contention that the big packers are crowding out the little fellows, the independent packers?

Mr. TALIAFERRO. There is nothing that I can see in that.

The CHAIRMAN. You have no grievance?

Mr. TALIAFERRO. I buy on the same market that they do, and I sell on the same market that they do, and they are not making any money when I am not making any, and they are making money when I do. When they make money I make money, and when they lose money I do.

The CHAIRMAN. Do you buy on the market in Chicago, the stock yards?

Mr. TALIAFERRO. I buy on all markets. There isn't any market except Oklahoma that I don't buy in at some time. I buy as far west as Fort Worth.

The CHAIRMAN. As far as you know there is no combination against you in the markets?

Mr. TALIAFERRO. Absolutely none. They couldn't do it.

The CHAIRMAN. It is free and open competition all along the line?

Mr. TALIAFERRO. Absolutely. There isn't the competition in any business in the country that there is in the packing business to-day.

The CHAIRMAN. Now how about the selling?

Mr. TALIAFERRO. There is just as much competition in the selling as there is in the buying.

The CHAIRMAN. Well, have you any evidence of the big packers crowding into your district and crowding you out, putting up a shop next door to you, or something of that kind?

Mr. TALIAFERRO. I have evidences of their crowding into my business and into every other business. They go into business wherever they can get it.

The CHAIRMAN. Do you crowd into theirs? Do you invade their territory?

Mr. TALIAFERRO. Every chance I get.

The CHAIRMAN. Well, you have no knowledge of any unfair methods then?

Mr. TALIAFERRO. I have no brief for the big packers.

The CHAIRMAN. I am speaking of yourself now.

Mr. TALIAFERRO. Yes.

The CHAIRMAN. You have no evidence of any evil practices, have you, Mr. Taliaferro?

Mr. TALIAFERRO. Absolutely none.

The CHAIRMAN. Are there any other questions?

Mr. VOIGT. I want to ask you one more question, Mr. Taliaferro. You said a while ago in answer to a question as to what would happen in case Cudahy, buying now 10 per cent as compared to the other packers, should get an ambition to jump up to 30 per cent, it would result in undue competition, I believe?

Mr. TALIAFERRO. Oh, it would result that if Cudahy went into any market—it doesn't make any difference where it was—and attempted to buy a larger percentage of any stock against any of the other packers, it would inevitably result in a fictitious or higher market.

The CHAIRMAN. That would result in actual competition?

Mr. TALIAFERRO. Oh, it is actual competition now. That would be superlative competition; it would be foolish competition.

Mr. CREIGH. What would happen to Cudahy, Mr. Taliaferro?

Mr. TALIAFERRO. To Cudahy?

Mr. CREIGH. Yes.

Mr. TALIAFERRO. He would go broke.

Mr. VOIGT. Now let us follow that up a little further. Then it is inevitable, according to your way of thinking, that Cudahy must in the future retain his 10 per cent position?

Mr. TALIAFERRO. Well, I would think that Cudahy would try and get 12 per cent. I would think he would try to get all he could.

Mr. VOIGT. Well, now, suppose Cudahy would try to get 12 per cent?

Mr. TALIAFERRO. I think he could do it.

Mr. VOIGT. You think he could do it?

Mr. TALIAFERRO. No question about it, if he wanted to pay the price. But if he would sell the stuff he would be losing so much money that he would not be able to buy 12 per cent of it long.

Mr. VOIGT. Then there is no way, according to your way of thinking, for that concern to get out of the 10 per cent class?

Mr. TALIAFERRO. There is no way for them to get out of the 10 per cent class that I know of, except that they buy a larger percentage of the product, the live stock.

Mr. VOIGT. But you say if they attempt that they are going to go broke?

Mr. TALIAFERRO. If they attempt it far enough and go far enough, I say they will.

Mr. VOIGT. Assume now, they want to get 12 per cent, do you think that will break them?

Mr. TALIAFERRO. Well, if they want to market any percentage of that in Detroit we will put them out of business there pretty quick. We will try to, anyway.

Mr. VOIGT. Then it is your opinion that if they do attempt to get more than the 10 per cent they will go broke?

Mr. TALIAFERRO. Any man that tries to buy more than he should buy, or more than he has facilities for taking care of, is going to go broke, I don't care who he is.

Mr. VOIGT. Well, do you mean to say that if one of the large packers should increase 1 or 2 per cent in a year, that that would be more than he could handle?

Mr. TALIAFERRO. Oh, no, no; I don't say that, Mr. Voigt.

Mr. CREIGH. Would you mind my putting in a sentence right there, Mr. Voigt?

Mr. VOIGT. Yes; go ahead.

Mr. CREIGH. You have talked about Cudahy, saying that they have about 10 per cent. Now, suppose Cudahy got to 11 per cent, we will say, that is only 1 per cent higher, and yet you can see that that is 10 per cent increase in our entire business. Now, nobody could finance a 10 per cent increase in a year or anything like that in the Cudahy packing business. On the other hand, if we should drop to 9 per cent, why we would have lost 10 per cent of our entire business, and again that is almost unbelievable. Now, it doesn't get into the Federal Trade Commission report there. And far from there being any fixed percentages in these things, you will find variances that will run all the way from 9 to 12½ in our case, either way, all the way through. That means millions of dollars.

I will be glad to explain it on Friday when I get into the thing, but I thought perhaps I might now at this time suggest that.

Mr. VOIGT. All right. In connection with the gentleman's statement I want to call attention to the table found on page 50 of part 2 of the Federal Trade Commission report. That shows for the year 1916 the weekly purchases of cattle by the Big Five. Take, for instance, Swift & Co. On January the 8th, 1916, they purchased 34.73 per cent of all the cattle purchased by the Big Five, and during the whole year 1916 their purchases do not vary much over one-half of 1 per cent in any week. The same holds good of the other packers.

Mr. CREIGH. How about Cudahy, Mr. Voigt? What is our high and our low per cent?

Mr. VOIGT. Well, you start in with 8.99, which is virtually 9 per cent, and you wind up with 9.57, but you fluctuate between 8 and a fraction and 9 and a fraction.

Mr. CREIGH. Well, that is in the year 1916?

Mr. VOIGT. Yes.

Mr. CREIGH. If you take their tables you will find that it is going from 8½ to 18.75, as I remember the figures. You will see 8½ to 12.75 is a 50 per cent increase for us.

Mr. VOIGT. Well, if you will look at this table, and that is the only table that is available in this report, I think it will strike any man that that condition is impossible without any preconcerted action.

Mr. TALIAFERRO. Well, I will tell you one thing, Mr. Voigt, and that is this: A packer establishes branch houses for the amount of product that he handles. If he has branch houses that call for a certain number of cattle, the trade as a general proposition does not vary very much. He figures so many cattle for this house and so many for that house and so many for the other, and that is just about so many cattle. Now, he will continue to buy the number of cattle on the total that will supply the number of branch houses that he has. Well, now, that restricts his buying, because he can not handle any more than the branch houses can handle, and the variation that comes is in the demand at the end of the journey. Some weeks it takes a little more. Other weeks a little less. But that buying is governed by the amount that they can supply to the different branches that they have established, and that is what keeps them steady all the time, keeps all the other packers steady, keeps them steady and keeps us steady.

Mr. VOIGT. There isn't any doubt that that is true, Mr. Taliaferro. There is no doubt but that it is true that a man who has a capacity for 30 per cent of a given product, of course, can not jump to-morrow to 30 per cent. But the thing that strikes me as being suspicious is that these men are in this business, and for years and years they occupy the same relative position. I challenge you or any other man to find five men in any competitive line of business in the United States that will show a similar result.

Mr. TALIAFERRO. There is no other business in the United States that is operated like the packing business.

Mr. VOIGT. Well, you can say that of the other businesses. You can say that their business is not like the packing business.

Mr. TALIAFERRO. No, Mr. Voigt; the Cudahy Packing Co., speaking along the line of the point that you brought out, I know that they are looking around for locations for branch houses all the time, and I know that as soon as they find a town that will support a branch house the Cudahy Packing Co. gets in, unless somebody else beats them to it. Now, I know that.

Mr. VOIGT. Now, when you examine the financial condition of these five for, say, 10 years past, you will find that one packer has made practically twice as much money as the other. That indicates that that concern is more scientific in its business, more successful in its business, and notwithstanding the fact that they have shown that additional efficiency from a financial standpoint, their business has remained stationary as compared with the other four. I can not conceive that that is possible.

Mr. TALIAFERRO. Looking at that business from the outside, it would seem so; yes. But when you take the business and analyze it you will find that a house in one town will sell a product very much better and make a profit on it, where a house in the next town 10 miles away will lose money. Now, the reason that the one packing house is making money is because he has the most favorable location, and that makes a great difference in the out-turn of the business.

Mr. VOIGT. Now, then, that packer that you speak of has shown great efficiency in marketing his product, in doing his business, in making a profit. But there is one way in which he has not shown any efficiency, and that is in the growth of the purchases of live stock.

Mr. TALIAFERRO. But he governs his live stock by the out-turn that he has. That governs a man's purchases at all times.

Mr. GERNERD. Pardon me, is there such a thing as an understanding between the packers not to locate in each other's territory?

Mr. TALIAFERRO. I don't think so, but I do think that they are watching every territory that they can get into. And when one finds out that there is a little hole that he can put a house in, he sticks it in. If he does not get in there with a house, he gets in there with a car, I know that, all the time. But they are watching each other like cats and dogs. Up there in Detroit there is a location that one of the packers grabbed the other day, put in a house there, because he thought it was a good thing. Well, I guess it is, because it took away considerable of our trade. But they are watching that thing mighty close.

Mr. GERNERD. One point there in regard to Mr. Voigt's question about the one concern making so much more money, and you then answered by saying that it was by reason of having locations?

Mr. TALIAFERRO. Locations.

Mr. GERNERD. Favorable locations?

Mr. TALIAFERRO. Yes. One may have a favorable trade on the other side, with England, for instance, or with Germany, for instance, or some other place, or he may have favorable car routes that he covers, favorable territory, and in some parts of the country they are short of live stock. Then the packer that has branches in that place that is short of live stock gets a bigger per cent of the trade, and he gets a better price.

Mr. GERNERD. I know in my town that we have got everybody, I think, represented.

Mr. TALIAFERRO. Yes; and I think in every other town you will have everybody represented if there is a place to stick a house in.

Mr. GERNERD. And we have a local packer there.

Mr. TALIAFERRO. Yes; I know they keep us in hot water all the time. The same as we do them. We keep them in hot water and they keep us in hot water.

Mr. GERNERD. They have been making real money?

Mr. TALIAFERRO. They have been making less real money during these last three years.

Mr. GERNERD. Well, they can afford it.

Mr. TALIAFERRO. They can not afford it another year.

Mr. GERNERD. Well, that may be.

The CHAIRMAN. Are you through, Mr. Gernerd?

Mr. GERNERD. I am through.

The CHAIRMAN. Have you anything further you wish to say, Mr. Taliaferro?

Mr. TALIAFERRO. That is all, thank you.

The CHAIRMAN. If there are no further questions, that will be all, thank you.

Now have you any more?

Mr. LIGHTFOOT. I don't know how long you want to sit, Mr. Chairman.

The CHAIRMAN. We are here to accommodate you. We were called away this afternoon, so we will stay a little longer to accommodate you.

Mr. LIGHTFOOT. We lost a little time on account of the roll call, and the hearing being limited, and there being some gentlemen here that must leave to-night, I would like if you would let them go on. Their testimony, I think, will be very brief. We will call for Mr. Beacham.

STATEMENT OF ROBERT J. BEACHAM, SECRETARY MERCHANTS & MANUFACTURERS' ASSOCIATION, BALTIMORE, MD.

The CHAIRMAN. Proceed, Mr. Beacham.

Mr. BEACHAM. My name is Robert J. Beacham. I am secretary of the Merchants & Manufacturers' Association of Baltimore, an organization composed of over 2,500 of the leading business and professional men of our State. Its policy is dictated by a board of directors composed of 55 men representing every activity in the city of Baltimore that is worth while.

I am here by their direction to say to you that this organization is absolutely opposed to any legislation that affects only one industry. Legislation, to be fair and equitable, should affect any or all industries.

I have heard it said here that there are not a sufficient number of laws on the statute books to-day to take care of ourselves, and that there is need and necessity for more legislation because of certain conditions arising. One of the Ten Commandments says, "Thou shalt not kill," and we have plenty of laws covering murder, and yet we have murders committed every day. We have in Baltimore—and I don't know how you have it in your States—a most efficient United States district attorney. We have a most efficient judge, and a most efficient court, and I want to assure you that if any one violates a law within our jurisdiction he will very likely be punished, for we have to our credit 99 per cent of convictions.

Now, it does seem to the average business man that we have got too much law to-day, and what we want is more common sense. There is too much calamity howling in the world to-day. There isn't enough of confidence. And I say to you that in the business world—and I know whereof I speak—the conditions are most deplorable. And please leave us alone, please leave us alone at this time. Give us a chance for our white alley. Give us a chance to readjust ourselves. We need readjusting. The business men of this country are the ones who carry the burdens, and if the business man is not successful the country is not successful. Now, please leave us alone, that is all we ask.

I don't know anything about the details of this legislation, but I know that we have got too many commissions now. And if we would abolish a few of them, including the Federal Trade Commission, and get around the table and put our heads together, like we are doing here to-day, we will get somewhere. But we won't get anywhere with commissions.

Mr. GERNERD. All right, what you say is all very well, but supposing now it develops that the five leading packers of this country are creating a fictitious market, do you mean to say that we as legislators are going to sit idly by and fold our arms and let it go at that?

Mr. BEACHAM. No, sir; I mean to say to you that there are on the statute books of the United States enough law to make it possible to lock up everybody that is guilty of violations of the law. There is enough law to take care of everybody on any proposition.

Mr. GERNERD. All right. Do you mean to say that you have got such an efficient attorney in your State?

Mr. BEACHAM. I know we have.

Mr. GERNERD. Do you mean to say that the eighteenth amendment is being enforced in your district?

Mr. BEACHAM. I don't know whether it is or not.

Mr. GERNERD. You do not?

Mr. BEACHAM. No.

Mr. GERNERD. It is right within the scope of your district attorney and your courts and everything else.

Mr. BEACHAM. Well, I want to tell you that it is being fairly well and efficiently enforced.

Mr. GERNERD. Fairly well?

Mr. BEACHAM. Pardon me just a minute. Do you mean to tell me that we don't have to continue the criminal courts of this country in anticipation of trouble?

Mr. GERNERD. Yes; we have to have them.

Mr. BEACHAM. All right, we have the law there. I hope that you won't put a great moral question up alongside of a business proposition. I hope you won't do that.

Mr. GERNERD. Well, some people don't look at that as just a moral question. Many regard that as a great economic question.

Mr. BEACHAM. Well, I don't; so there is an honest difference of opinion, and we are all entitled to that.

Mr. GERNERD. Oh, yes.

Mr. BEACHAM. I say to you, that the business of this country—I am talking about business, because liquor is no longer a business in this country, and the sale or manufacture of it is a violation of the law; it is no longer a business in this country, and it is up to the Attorney General to get rid of it, and if I was the Attorney General I would take a great chance to try to do it.

The CHAIRMAN. I understand you to say that there is no need of legislation; that we have adequate laws?

Mr. BEACHAM. I feel that way.

The CHAIRMAN. Let me quote the Attorney General.

Mr. BEACHAM. I think we have too much law—excuse me. Not only adequate, but we have too much law.

The CHAIRMAN. Well, let me quote the Attorney General to you This question was asked him:

Do you consider that the presen 'antitrust laws are adequate to meet the situation outside of the decree?

Attorney General PALMER. Well, Mr. Chairman, I haven't got as much confidence in the Sherman antitrust law as I used to have. We don't seem to be able to bring cases which the Government believes are competent within its terms, according to the judgment of the Supreme Court.

And later on he says in answer to this question that was asked of him:

If it is possible to convict others, isn't it possible to make a law to convict the packers?

Attorney General PALMER. I didn't say business men have not gone to jail. I said that under the Sherman antitrust law no business man had been sent to jail.

Wouldn't that indicate that there might be a little room for a little legislation?

Mr. BEACHAM. No, sir; that would indicate to me that the Attorney General was not on the job. I know Mr. Palmer.

The CHAIRMAN. Well, he speaks of the Supreme Court.

Mr. BEACHAM. I know Mr. Palmer. I have known him for a good many years. He was Attorney General of the United States, but that indicates that he was not on the job.

We have had the Sherman antitrust law go before the Supreme Court a half a dozen times. In Jonas *v.* Jonas we wanted to try to get some adjudication, but we haven't got it. That is not the fault of the law; that is because we haven't had the adjudication.

The CHAIRMAN. Are you in favor of haling everybody into court for the least violation?

Mr. BEACHAM. Yes, sir. Everybody that violates the law should go to the captain's office, sir. That is what the law is for. That is the way I live, sir.

Mr. GERNERD. Well, unfortunately human nature is not alike, Mr. Beacham.

Mr. BEACHAM. Well, that is the way I am living. If I can not pay a bill, I don't buy the merchandise.

The CHAIRMAN. Have you anything further you want to say?

Mr. BEACHAM. No; I haven't anything further to say, Mr. Chairman, except to add that our organization—and I will put this in writing if you wish to have me do so—representing the business interests of our city, feels that this is no time to pass any legislation of this type and character, and particularly when it singles out a single industry. Now, if there is need for legislation, if the Attorney General hasn't got enough laws on the statute books, if there are not enough laws for him to act in the matter, then why doesn't he prepare a bill and bring it down here and say, "Here is a bill that will cure this evil. Pass it." I know that the Attorney General, Mr. Daugherty, has got a couple of hundred of them up there, and he ought to be able to get everybody, including the devil, but if he hasn't got enough law to cover the matter, why, he ought to come down here with a bill and say, "Gentlemen, here is a bill; pass it and I will get these chaps." But what do we do about this? Why, the Committee on Agriculture has got a bill for this interest, and somebody else has got a bill for some other interest, and somebody else has got a bill about something else, and so on, and so on, and when we put them all together, why, they don't get you anywhere.

Mr. GERNERD. We are getting somewhere.

Mr. BEACHAM. I hope you will.

The CHAIRMAN. The bills introduced were designed to strengthen the law. That is the object.

Mr. BEACHAM. Yes; I know it is the easiest thing in the world to introduce a bill, but there is one bill introduced for one interest and another bill about another, and so on, and they don't get you anywhere.

The CHAIRMAN. Have you anything further, Mr. Beacham?

Mr. BEACHAM. No, thank you; that is all.

The CHAIRMAN. If there are no other questions we will call the next.

Mr. LIGHTFOOT. Mr. Bischoff.

STATEMENT OF GUSTAVE BISCHOFF, PRESIDENT OF THE ST. LOUIS INDEPENDENT PACKING CO., ST. LOUIS, MO.

The CHAIRMAN. Kindly give your name.

Mr. BISCHOFF. Gustave Bischoff.

The CHAIRMAN. And your connection?

Mr. BISCHOFF. I am the president of the St. Louis Independent Packing Co., of St. Louis.

The CHAIRMAN. You may proceed, Mr. Bischoff.

Mr. BISCHOFF. I came here to-day to say to you that we don't need this additional legislation. Or legislation, so to say, hampering us in our business. We now have all of the regulation that I think we ought to have in our line of business, meaning the Government inspection service, or the authorities.

Now does anyone want to put a question?

The CHAIRMAN. Do you care to comment on any of the proposed bills, or state what your objections are to legislation, or any proposed legislation?

Mr. BISCHOFF. I think that we now have all the expense and all the hampering that we should have in business.

The CHAIRMAN. You are opposed to any legislation?

Mr. BISCHOFF. Yes, sir.

Mr. GERNERD. You would not say that the inspection bill did not serve a very good purpose?

Mr. BISCHOFF. Splendid purpose.

Mr. GERNERD. You think it serves a very good purpose?

Mr. BISCHOFF. Yes, indeed, splendid.

The CHAIRMAN. Have you anything more to say, Mr. Bischoff?

Mr. BISCHOFF. No, sir.

The CHAIRMAN. I think that is all then. We are very much obliged to you, sir.

Have you any others?

Mr. LIGHTFOOT. Yes; we have; we have Mr. Krey, of St. Louis. We have several gentlemen, Mr. Chairman, who would like to be heard to-day, so that they can get away, and in view of the recess that was taken, if you can give us the time now, we would be much obliged.

The CHAIRMAN. All right, we will hear from Mr. Krey.

STATEMENT OF FRED KREY, PRESIDENT OF THE KREY PACKING CO., ST. LOUIS, MO.

The CHAIRMAN. Give your name.

Mr. KREY. Fred Krey.

The CHAIRMAN. And give your connection.

Mr. KREY. I am president of the Krey Packing Co., and also represent the St. Louis local packers.

The CHAIRMAN. You may proceed.

Mr. KREY. We had a meeting of the local packers of St. Louis, and I am here representing them. As far as the local packers are concerned, we protest against any legislation, and I also say the same thing for the Krey Packing Co.

The CHAIRMAN. You protest against any legislation, do you, Mr. Krey?

Mr. KREY. Yes, sir; we protest against any legislation. We think there is too much legislation that puts too big a burden and expense on us. And the packing business, as Mr. Taliaferro and some others have stated here in their evidence, has lost money during the last few years. That is true of all of the packing-house people. I know that our company has lost money for the last two years and a half now, and for the first five months in this year we are way over $100,000 in the hole, and we are in bad shape. And we think that there is too much legislation. The packing business has been losing money and we are in bad shape.

Mr. GERNERD. What is the capitalization of your company, Mr. Krey?

Mr. KREY. $990,000.

Mr. GERNERD. And you do a business of how much?

Mr. KREY. We kill all the way from 1,000 to 2,000 hogs a day.

Mr. GERNERD. When did you begin in this business? How long ago was your company organized, and how long have you been in the packing business?

Mr. KREY. Started about 39 years ago in a very small way.

The CHAIRMAN. How do you account for that loss; how was it incurred?

Mr. KREY. Sir?

The CHAIRMAN. How do you account for that loss?

Mr. KREY. Well, I think a good deal of it is in the climbing of the market, and also the very big proportion of running expenses, the expenses getting so high. You might say it refers to coal, labor, boxes, cans, and anything that you might mention, all of which have gotten so high in price.

Gentlemen of the committee, if you would like for me to do so, I have a little statement that shows just how much money I have lost and which I could put into the record. I can give it to you showing for the last five months, or for two years and five months, or for three years and five months, or including a number of years past. I do know that in my 39 years' experience——

The CHAIRMAN (interposing). The losses that you may have suffered will not be the subject of any legislation. You do not suggest to this committee any legislation to meet that, do you?

Mr. KREY. No. But if you are going to legislate, we will surely have to make reports, and that is a hardship on a small concern, to

change their books. I want to say to you that this is the first time I have been to anything like this—this hearing. I used to think that a Congressman had a snap, an easy thing, but I can now see your end of it. You gentlemen have got the farmer on your backs, and he comes in and complains because the price received by him is not high enough—for his live stock—and the consumer comes along and complains that what he buys is too high, and you have troubles of your own.

The CHAIRMAN. There has not been very much complaint before the committee.

Mr. KREY. And, as I said, on the other hand, the people, the consumers, complain that stuff is being sold at too high a price. You can not satisfy them both, unless the packer has had too much profit here lately, and that is not the case at this present time. I do not know what you can do about it.

The CHAIRMAN. Well, the question is, is regulation necessary?

Mr. KREY. Not as far as I can see.

The CHAIRMAN. If so, what sort of regulation should we have?

Mr. KREY. I do not see any need for regulation.

Mr. GERNERD. In other words, there is nothing wrong in the packing business except that the packers are losing money?

Mr. KREY. That is all. I can see no need for regulation. We might need some legislation to let us make some money. But that is not any fault of yours and you can not do that. Conditions have got to right themselves. The country at large is on too high a basis, I may say, if conditions do not change. Transportation and other things have got to get down on a lower basis. There are a good many things that it would be cheaper to let rot, like the fruit in California, than attempt to handle them. The surplus livers to-day I would be glad to give to the poor. I would give these livers to China or to Germany or give them to you gentlemen if you want them, for nothing. That is true as to my surplus livers, and there are a lot of other things in the same position.

How are you going to remedy the situation? Suppose you take the matter of hair, and a few weeks ago I said to one of my competitors:

Gee, I struck it bad on everything.

And then I contracted for the sale of my hair. Just two weeks ago the gentleman who took my hair came from Chicago, a young man, or a comparatively young man, and I had not sold him any hair for three years, and now this year I had contracted for it. He came to me and laid his cards on the table. He owed Mr. Bishop's son, who testified before me, he owed him some money he said. And what did he say to me? It was this:

Gentlemen, I come down here to let you know that all my contracts are canceled and I am broke.

He then added:

I owe you some money and do not want to go into bankruptcy, and I offer you my plant in Chicago.

Well, we could see that the young man did not want to go into bankruptcy. Mr. Bishop, jr., and myself offered the young man the hair for six months for nothing with the expectation that it would give him a chance to recoup himself. This young man, or com-

paratively young man, I judged him to be about 35 years of age, looked up and seemed to be happy. A few minutes later he kinda looked down, and we could see that he rather quivered, and then in a short while he looked up again and said:

Gentlemen, I surely thank you, but if I get the hair for nothing the expense of making it up eats me up. I thank you.

And I did not get anything for my hair. Now, those are the conditions confronting us to-day. We are almost in the same condition as your man down there. It is a horrible condition.

The CHAIRMAN. How about hides?

Mr. KREY. Mr. Chairman, I only kill about 50 or 75 cattle a day, something like that, just for a local concern.

The CHAIRMAN. How about tankage?

Mr. KREY. I myself let about 150 men go the first of last month, and I intend to run my tankage down the river. That is, I will have to haul then.

The CHAIRMAN. There is no market for by-products?

Mr. KREY. That is where the trouble comes in, Mr. Chairman, and gentlemen of the committee. Those men who were in the tankage room were paid 52 cents an hour, or they were getting 60 cents an hour and they were reduced to 52 cents an hour by Judge Alschuler's decision, which the Government fixed here at Washington.

The CHAIRMAN. What is the present price of packer hides?

Mr. KREY. I sell my hides green, and I get from about 6 cents to 7 or 8 cents a pound for them.

The CHAIRMAN. How much did you get for them a year ago?

Mr. KREY. If I am not mistaken the price was around 45 to 50 cents.

The CHAIRMAN. How about beef? How does the wholesale price compare with that of a year ago?

Mr. KREY. Well, as I say, the beef end I have nothing at all to do with. My son-in-law handles that.

The CHAIRMAN. How about pork or hams?

Mr. KREY. Hams are comparatively high and so are pork loins, comparatively speaking. My hogs last week cost $8.35 a hundred or somewhere around that, and I never saw them so high. But that is as somebody else said this morning about lamb chops and selected cuts that the people want. That is the only thing you can sell.

Gentlemen of the committee, I will give you my statement if you wish it.

The CHAIRMAN. No; I do not think the committee would be interested in your personal affairs. We want to find out something about the business. The contention is that the price of live stock has been materially reduced.

Mr. KREY. It has.

The CHAIRMAN. But that the wholesale price of the finished product has kept up; that there has not been a decrease in price to correspond with the decrease in price of the live stock.

Mr. KREY. Mr. Chairman, I hear that same thing all over the country.

The CHAIRMAN. You have explained that in part. Now what else have you to say about that matter?

Mr. KREY. I hear the same song from my friends wherever I go. I have been from San Francisco around the central part of the country, and now I come here, and it was only a few months ago that I

was on the grand jury, and there were new friends I have never met before. When they found out I was in the packing business of course they right away branded me as one of the robbers. Of course they do not understand the situation.

The CHAIRMAN. If the packers are losing money, how about the retail price of meat products?

Mr. KREY. Well, that is what they are complaining about—the consumers.

The CHAIRMAN. Can you state how retail prices compare with the price of the live animal?

Mr. KREY. No; I can not.

The CHAIRMAN. You come in contact with them?

Mr. KREY. I come in contact with them and have a good many friends who are retail butchers. They have done well here lately. That is all I know about the matter. I do not know what they sell the meat products at. But the same question was put to me by some man when I sat in the grand jury, and these men wanted to know whose fault it was. I told him it was their own fault. They wanted to know why. I said:

As long as you go to that butcher and pay him the price he asks and he does not lose a single customer, he would be a darned fool to come down in price. But you tell your wife to go and shop around.

I told him the trouble was that when somebody tries to reduce the price and advertises a reduced price the average consumer pays little or no attention to him.

Now, take hides; and when I bought a pair of shoes a few weeks ago, black shoes, I paid $5 for them, and I have them on at this time. What did I do? I looked around. I want to patronize the fellow who sells within reason. And so it is that I say it is the people's fault, these high prices. The old gentleman here who represented the farmers told you why the expense went on. Of course I do not know the retail end of it, and he may have his story all right. But you will have to get that from him. And the retailer may have another story.

The CHAIRMAN. The expense to him would be cost of distribution. He has to pay rent, clerk hire, telephone hire, and so on.

Mr. KREY. It is all on a high basis. If you legislate too much, it may do more harm than good. If you can legislate like you did in the matter of the meat inspection law, all right. That was a good law. Or if you can legislate as I have heard about the Interstate Commerce Commission stopping rebates—that was a very good thing.

But, gentlemen of the committee, be careful. Otherwise you may be just in the same condition in a year or two, and the people will be cursing you just like some people are cursing to-day. Maybe some of you Congressmen have voted for some bill, and you thought it was a good thing; you were satisfied you were doing a good thing but may be it did not turn out all right. Sometimes these things do not work out so well. Legislation can not cure all the evils. If you pass some one of these bills, it is a question what the commission you will provide for will do. It is surely going to mean an additional expense; that is a cinch; and it has got to be paid from some source.

The CHAIRMAN. Isn't it true that proper regulation is protection to the honest vendor?

Mr. KREY. If there is any protection in it, all right, but I am afraid of it. We would rather not have it, because I think we are going to crawl out of this situation in a reasonable time, so far as we are concerned; that is, so far as we packers are concerned.

The CHAIRMAN. Any other questions?

Mr. KREY. I thank you.

Mr. LIGHTFOOT. We have just one more witness.

The CHAIRMAN. Let him come around.

STATEMENT OF MR. L. E. DENNIG, TREASURER OF THE ST. LOUIS INDEPENDENT PACKING CO., ST. LOUIS, MO.

Mr. GERNERD. Where are you located?

Mr. DENNIG. At St. Louis. We have a good-sized plant, and our sales last year were about $34,000,000.

Mr. GERNERD. That is a pretty good, respectable business.

Mr. DENNIG. We killed a little over 634,000 hogs and about 71,000 cattle, and some sheep and some calves. I can give you full details if you want them.

In a general way we are here on account of these various bills. I have read over the McLaughlin bill, which is similar, I believe, to the Norris bill. I have read over the Haugen bill, and have read over the Anderson bill.

While I would possibly prefer one to another, yet in a general way we are opposed to any interference with the packing-house business. We think that we are in the same class with every other line of business. We have a good reputation with our bankers and with our customers and with our fellowmen, and we do not think we should be ostracized and put in a separate class as against the foundryman or the baker or the shoemaker or any man in any other line of business, and if you must legislate for business why not do it for all, and not select the packers, but make every man come up to your requirements as you see the situation?

I will take, for instance, the Haugen bill, putting us under the Secretary of Agriculture, with whom we are familiar; I mean the present Secretary. Even if that bill, which I believe could be worked under the easiest of any of the bills, were enacted into law, yet even in the case of that bill it is not defined exactly what power the Secretary would have over the packing business. That matter ought to be well defined in any bill, whether for the packers or for all of the business men in this great country. Those powers must be limited. Only the public good should govern and nothing else.

So it is that I say in a general way we would much prefer not to have any legislation, not unless you include every line of business in the United States, and put them all in the same class. They are no better than we are and have not been in the past, and I really would prefer no legislation of any kind. I do not think it necessary, especially not at this time.

Gentlemen of the committee, you should give the men in business a chance to get on their feet again. They have troubles enough of their own without having to make out a lot of new reports and put in a new set of books and having a new bunch of inspectors come around the plant. Between income inspectors and the balance of them one has nothing to do but to have two or three men on the job

pulling out books for them, and what is the result? When it is all over they will give you a clean bill of health, but when it is over you have wasted from a week to six or seven weeks with them. And when it is all over they have not improved the situation any nor lessened the cost of the article to the consumer. It will do nothing except probably to give a job or two to some inspectors, and I do not think there is any advantage in that.

We wish you might see your way clear to head off this proposed legislation and give us a chance to get on our feet again. But, in any event, keep us in line with the balance of the business men in the country. Do not make a mark of us.

The CHAIRMAN. Any questions, gentlemen of the committee?

Mr. VOIGT. I have none.

The CHAIRMAN. Have you finished your statement?

Mr. DENNIG. I have practically finished it. If you want to ask me any business questions I have some memoranda here I can refer to.

There is one more thing I want to say. There were some statements made to-day from which I judge there must be quite a difference of opinion as to the kill of animals in this country. I have before me some figures that we got from an association which we belong to, the Institute of American Meat Packers. For instance, in the year 1920 the kill of all animals slaughtered in the United States was 100,650,502, of which the smaller packers and big butchers killed 63,500,544, or 63 per cent. Of those 100,000,000 cattle slaughtered there were inspected by the Government and other people for shipping purposes 61,710,402, and of that total the five large packers killed 37,155,958, all of which were inspected.

I have figures on this matter clean back to 1913, and the percentages do not vary much. So you will see that the smaller packer and the butcher kill, of all the animals slaughtered—cattle, hogs, sheep, and whatever else they may kill, calves and so forth—practically 63 per cent. So you will see we are quite a factor.

And so it is I say when you want to pick out the five big packers and judge the balance of the trade by them, you are making the tail wag the dog. I do not think you mean to do that.

The CHAIRMAN. Those figures were prepared by whom?

Mr. DENNIG. The Institute of American Meat Packers. That is an association of all the meat packers of the United States, little and big.

The CHAIRMAN. Those figures are probably more complete than any we have.

Mr. VEEDER. Those figures are taken from the official records of the Department of Agriculture.

The CHAIRMAN. That is the total kill of animals?

Mr. VEEDER. Yes, sir.

The CHAIRMAN. Both intrastate and interstate?

Mr. VEEDER. Yes, sir; it is the total kill going into consumption.

Mr. VOIGT. I think that statement ought to go into the record.

The CHAIRMAN. Without objection it is so ordered.

(The paper referred to is here printed in full in the record, as follows:)

Year.	Total animals slaughtered in United States.	Total animals slaughtered under Federal inspection.	Total slaughtered by other than five larger packers.	Total slaughter of five larger packers.	Per cent of total slaughtered by five larger packers.	Per cent of federally inspected slaughtered by five larger packers.	Per cent of total slaughtered by all others than five larger packers.
1913	93,639,474	57,560,774	59,920,494	33,718,980	36	59	64
1914	89,673,588	55,390,788	57,453,949	32,219,639	36	58	64
1915	96,803,636	59,718,436	63,332,641	33,470,995	35	56	65
1916	106,802,639	65,901,739	69,166,933	37,725,706	35	57	65
1917	90,832,131	56,913,131	53,802,184	37,029,947	41	65	59
1918	107,147,494	66,956,794	64,844,193	42,303,301	40	63	60
1919	110,251,730	68,649,330	65,926,925	44,324,805	40	65	60
1920	100,656,502	61,710,402	63,500,544	37,155,958	37	60	63

In connection with these figures it should be remembered that the five larger packers are in keen competition with each other. It should also be remembered that the largest of the five handles no more than 12 per cent of the country's total meat, or about 22 per cent of the output of plants under Federal inspection.

Mr. VOIGT. Your figures do not contradict the figures of the Federal Trade Commission, do they?

Mr. DENNIG. I do not know, except I do not believe you quoted this morning the entire kill. You only quoted the interstate kill or the inspected cattle, rather.

Mr. VOIGT. It was understood that that was the number of cattle killed that were in interstate commerce. We all know that there are more animals killed in the country than are killed in interstate commerce.

Mr. DENNIG. Well, yes. That is the reason I got these figures. I felt the same way, and I do not think that the entire business should be controlled by the minority. In this country the majority rules, and why should we be judged by what is an absolute minority as to whether we are guilty or not.

Mr. VOIGT. You understand that none of these bills attempts to regulate any packer who does not do an interstate business?

Mr. DENNIG. That is true.

Mr. VOIGT. These bills do not apply to the local butcher.

Mr. DENNIG. Nevertheless, if you are going to give us legislation and you think that legislation is absolutely necessary do not exclude anybody; put them all in, whether it is the baker or the butcher or the dry-goods man or anybody else. If he violates the law have him yanked up and give him his medicine. That is the way we feel about it, not that we should be picked out from all the rest.

Mr. VOIGT. It may be too big an order for this committee or even for the Congress to try at one time to regulate them all.

Mr. DENNIG. Yes; but this is something that goes into everybody's house and we are all interested.

Mr. VOIGT. Your only objection to this legislation is that you might be called upon to make some additional reports?

Mr. DENNIG. Yes; and we would be bothered in many ways. Here is another thing that comes to me. I have read this bill over in a way, and suppose one of our employees makes a mistake of some kind, what will be the result? It all depends upon the inspector, and the mood he happens to be in at the time, as a general thing. Whether I make a mistake or whether our president makes it or one of the men out on the loading dock makes a mistake in violation of the rules, we can be reported and maybe found guilty.

Mr. VOIGT. Oh, you need never fear anybody putting you in jail for making a mistake.

Mr. DENNIG. You have never had any experience in the packing-house business. With all due respect to the pure food law it all depends upon the inspector as to whether or not you are going to have pleasant conditions. If he is what is sometimes called a crank or an objectionable fellow he can make his little job cost you ten times his salary and not do any good to anybody.

Mr. VOIGT. All laws are executed by human beings and you might offer that same objection to any law.

Mr. DENNIG. Yes; but leave us as we have been with the balance of the country and not single us out.

Mr. GERNERD. And don't have any law for you at all?

Mr. DENNIG. Well, do not leave the other fellows out and put us in. Men are very much the same the world over, and why single us out?

Mr. VOIGT. If I were you, I would not worry about this packer legislation at all. I do not think it will hurt you one particle.

Mr. DENNIG. Well, I fear it would. If I had this body of men sitting around here to administer it, I would not care at all how you wrote the law, because I would try to do what is right and I would feel that you would agree with me.

Mr. VOIGT. There will not be anything in any packer legislation that is going to hurt anybody who does business on the square.

Mr. DENNIG. We have refrigerator cars and all that kind of business, and we have to run a modern plant, and we have to have everything, and it means a continual investigation.

I can not say with all of them that we lost money last year. We made a little money.

Mr. GERNERD. I want to congratulate you. You are the first fellow I have met yet who has made any money.

Mr. DENNIG. I did not want to throw a cold curtain over everything. But I want to say that within the last month we have lost over one-half of what we have made during the year. But I think we will make it up.

Mr. VOIGT. Average it up for five years and it will be all right I think.

Mr. DENNIG. Take the year 1819——

Mr. VOIGT (interposing). Why not take the year 1918?

Mr. DENNIG. Well, the year 1819 was a fair year I understand from some of my ancestors.

We were fortunate in selling our calfskins about August, 1919, for $1. That price held good until about September 30 and it fell to 50 cents. That is over a year and a half ago. On September 1, 1920, we inventoried them at 25 cents, and we inventoried them on March 1 at 17 cents, and we sold them the other day at 15½ cents. We have been holding the bag ever since.

Mr. VOIGT. I had a letter from a farmer in my district about six weeks ago. He said he took four cowhides to town and did not get enough for them to buy a pair shoes. He wants to know what is the matter.

Mr. DENNIG. He is right.

Mr. VOIGT. He is worse off than you are.

Mr. DENNIG. Take the matter of steer hides and they were up to 62 cents. We were bid the other day 10 cents on condition that we

would give the man, let me see, his first note is to be paid in five months, and in five different payments. And from 62 cents the price drops down to 10 cents, and we had to give him seven months to pay the money in.

Mr. VOIGT. Well, if you consider the condition of the other fellow, you have much to congratulate yourself on.

Mr. DENNIG. Where does the shoemaker come in in the matter of the big price? I paid $12 the other day for these shoes, and the top price for them was $14.50. They have only gone down $2.50 and leather has gone down 10 times that amount.

Mr. GERNERD. Do you know what the cost of labor is in the making of a pair of shoes?

Mr. DENNIG. No, sir; but I know it is nothing like that.

Mr. GERNERD. Do you know the actual cost of the labor in the making of a pair of shoes?

Mr. DENNIG. No, sir.

Mr. GERNERD. Well, that is according to the cost of labor in a pair of shoes, and then there is the cost of selling.

Mr. DENNIG. It is the idea of hating to give up the profit they have been getting the last four years.

Mr. GERNERD. You believe in reciprocity in business, don't you?

Mr. DENNIG. Yes, sir.

Mr. GERNERD. I happen to know just that end of the business, and there are three items which hold up the cost of shoes, labor, transportation and the cost of selling, and newspaper advertising represent 10 per cent of the cost of the retail business.

Mr. DENNIG. I think that is so, and I think it ought to be cut out.

Mr. GERNERD. That is why you are paying $12 for a pair of shoes.

Mr. DENNIG. Still, when I think that hides have gone down ten times, the cost of a pair of shoes ought not to be that much.

Mr. GERNERD. But the man that has a store down on Pennsylvania Avenue pays the same rent that he has been paying, and the same clerk hire and other similar expenses.

Mr. DENNIG. Then there are other things which are much more out of line than in the case of our business.

The CHAIRMAN. The committee will now stand adjourned until to-morrow morning at 9 o'clock.

(Thereupon, at 6 o'clock and 17 minutes p. m., the committee adjourned until tomorrow, Thursday, May 5, 1921, at 9 o'clock.)

MEAT PACKER.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Thursday, May 5, 1921.

The committee met at 9 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gernerd, Mr. Clague, Mr. Clarke, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. We are very fortunate in having with us this morning the Secretary of Agriculture, and we will be pleased to hear from him.

STATEMENT OF HON. HENRY C. WALLACE, SECRETARY OF AGRICULTURE.

Secretary WALLACE. Mr. Chairman, I have looked over these bills which you sent me, H. R. 14, the Haugen bill——

The CHAIRMAN. Mr. Secretary, there are a number of bills here, and I do not know whether you have had time to study them all or not.

Secretary WALLACE. I have not, Mr. Chairman. When I went into this matter, it occurred to me that any service I might be able to render in this regard would be in the way of discussing the proposition in its general phases.

The CHAIRMAN. One of the difficulties we have had in considering this question has been as to just where to place the jurisdiction. As one bill is drawn the jurisdiction would be given to the Interstate Commerce Commission as to the stockyards on the theory that they are a part of the transportation facilities of the country, and that the packers themselves should be placed under the control of the Secretary of Agriculture; another bill provides that the packers should be placed under the Federal Trade Commission, while still another bill provides for a new commission altogether. The bill which I have introduced places the stockyards under the Interstate Commerce Commission and the packers under the Secretary of Agriculture.

In view of the activities of the Department of Agriculture in the stockyards and in view of its splendid accomplishment, it has been a difficult question for us to determine whether they should now be divided or whether the entire authority should not be given to the Secretary of Agriculture; that is, giving the Secretary of Agriculture jurisdiction over the stockyards as well as over the packers. Your predecessor, I believe, suggested that the Secretary of Agriculture

should be given jurisdiction over all of them. That has been given consideration by the committee. We would like particularly to have your views on that matter.

Mr. TINCHER. And I would like to have your views on the whole subject of legislation.

Mr. GERNERD. Yes; as to whether this legislation is needed and what things are to be corrected by the proposed legislation.

Mr. SINCLAIR. It has been contended here by the representatives of the packers that they do not need any legislation at all.

Mr. TINCHER. Their position is to strike out all after the enacting clause in all the bills pending.

Secretary WALLACE. Then, perhaps it would be agreeable if I would simply discuss the general proposition.

Mr. GERNERD. Yes, sir.

Secretary WALLACE. And, of course, you have got to approach it with the idea that your purpose is to promote the orderly marketing of live stock with the fewest possible abuses and inequalities and injustices. When you come to consider the live-stock business, it is one great business to which there are some five or six different parties. For example, you start with the producer. He takes his stock to the local station for shipment. He either sells it to a local buyer, or in the case of the larger producer, he ships it himself to Chicago. The railroad comes in then as one of the parties necessary to the carrying on of the business. The shipper has consigned the stock to some commission man and that commission man acts as his agent and sells the stock to the packer or to the eastern buyer or to the local trader. First, before the commission man, the yard enters as one of the parties, because the stock must be unloaded, it must be yarded, it must be fed and watered, and then your commission man enters.

Then comes the packer, if it is the packer who buys the stock, and after the packer kills it the railroad enters again and handles the meat products such as are shipped out from that packing point, and then your wholesaler—in most cases the packer himself, through his branch house—and then your retailer.

These are all parties to the one great business, and I think I hardly need to say that the live-stock business is a very essential business to the agricultural prosperity of the country.

No doubt as time goes on and the population increases the amount of grain that is fed to live stock will decrease, because in the final analysis, when we are in a struggle for food, as they are in China, it is more costly to get that food through the live stock than it is to get it direct; but we have not reached that point. In an effort now to maintain the fertility of the soil we should encourage the live-stock business just as far as we can, and we should remove from that business anything which tends to discourage it.

As to the matter of legislation and how you are going to do that, I will say frankly that I think legislation is very desirable now.

Every time we have one of these periods of depression in the live-stock business, when prices are unreasonably low, we have a great outcry against the packers. When I was on a farm, in the late eighties, I attended meetings of the Improved Live Stock Breeders' Association, and at that time we had the same sort of speeches concerning what we called the "big four" that we have had in recent

years concerning the "big five," and the same criticisms and the same charges that they were combining to control the markets. Then, when business got more prosperous, the criticism rather died out, because we were going along fairly happy, we were making money, and then we sort of forgot about it. Then we got into another depression, and the same thing occurred over again.

In other words, you have exactly the same experience in the live-stock business that you have had in the grain business. During those periods we had the same demands for wiping out the boards of trade.

The evidence has shown very clearly that while many of these criticisms are probably not justified, there are many others that are very fully justified, and as time goes on and we learn more about them the criticism becomes more severe, and then the consumer comes in. All of that is damaging to the live-stock business. It tends to impair the standing of all the parties to that business, and I think that legislation tending to correct these evils is very necessary, not only from the standpoint of the producer and from the standpoint of the consumer, but from the standpoint of the packer himself.

I have not been able to understand why the packers should take the position of absolute opposition to any legislation. They are subjected to the fire of this criticism all the time, to investigations of one sort or another, and they are compelled to maintain men here and there in an effort to protect their interests. I should think they would welcome reasonable supervisory legislation, which would put an end to that sort of thing and which would give them a ready answer that "Uncle Sam is supervising us, and your criticism should be directed to him rather than to us."

As to what the legislation should be, you have outlined it, I think, splendidly in the paragraphs of this bill on pages 4 and 5. Under that language you forbid combining to fix prices and would do away with a number of other practices to which you have referred there.

How you are going to enforec that is a question your chairman suggests I should speak of. Let me say, to begin with, that as Secretary of Agriculture I am not seeking any new job. I have got plenty to do as it is, and the regulatory work of the department is the most trying work that I have to do. As you know, we administer a number of these regulatory laws, some 20 or 30 of them, and the final appeal in each case may come to the Secretary. So I am not looking for any new job, and if I should suggest that this should be under the Department of Agriculture, it would be not because I want to cover any more work into that department, but because that may seem to be the logical place.

Mr. GERNERD. We would hardly put it under the Secretary of the Interior.

Secretary WALLACE. No. Of course, we are not dodging any responsibility that it seems wise to place on us, but we are not seeking it.

You spoke of the stockyards administration being under the Interstate Commerce Commission. On first thought, that seems to be the logical thing to do. You think of the stockyards as you would of a terminal depot, a freight house. It would seem to be a part of your transportation system; but when you come to deal

with it in a practical way, there are a number of difficulties that come up in separating the stockyards proper from the activities which go on in the stockyards.

If any of you go into the stockyards, as no doubt many of you have, and ride through them, the separation between the operations of the stockyards as stockyards and the business which is going on in those stockyards will become very difficult; you will not know which man is a stockyards man and which man is a commission man and which man is a packer man. The cattle are unloaded there and theoretically they are unloaded by the stockyards employees, but practically the commission man to whom the cattle are consigned does a good deal of the unloading, because he feels that he must do that in order to protect the interest of his customers. The stockyards furnishes the pens and furnishes the water as well as the feed. The commission men, however, order the feed. They buy it from the yards people. The stockyards people do the weighing. In the practical handling of the thing, I question whether it is wise to separate the stockyards and put them under one supervisory body and put the packers and commission men under another, just as a matter of practical administration.

Suppose, for example, you have the stockyards under the Interstate Commerce Commission and some abuse comes up which should be corrected. What will be your process? You will file an information, an examiner must be sent to deal with the matter, and if the business is not sufficient to enable them to set up special examiners who have real knowledge of the live-stock business, you are under some difficulties in presenting your case to them.

If the matter should be under the control of one supervisory body, which would have an agent, a competent man supervising the whole thing, many of the things which would come up in the operation of the yards and in the handling of the stock, could be settled in an informal conference without any hearing and without any delay.

So that, just as a practical matter of administering the law, I am rather inclined to the opinion that while logically the stock yards are a part of the common carrier system, practically, a law of this kind could better be administered under one supervisory body. I am not insisting on that because you perhaps can devise ways to simplify the matter, if they should go under the Interstate Commerce Commission; but tke easy way would be, I think, as I have suggested.

Mr. TINCHER. Mr. Secretary, if Congress should pass legislation placing the packers and the stockyards under some regulatory power, I have always contended, I do not know whether I am right or not, that it did not make much, if any, difference, who owned the stockyards; and that a decree or any arbitrary ruling that the packers should not own any interest in them might be injurious to trade, so long as they were regulated properly, and I would like to have you go into that matter because it is involved in this legislation. You understand we have a decree now that is supposed to divorce them from the stockyards.

Secretary WALLACE. Yes. It is rather hard to form a clear opinion on that matter. You understand the grounds for the objections to the packers owning the yards. It enabled them, if they should choose, to make it very difficult for a competing packing

plant to get into those yards; that is, they could control the location, the matter of putting in switches, and the ordinary conveniences necessary to the efficient conduct of a packing business; and there seemed to be, I think, evidence to show that at times the packers who owned the yards did throw difficulties in the way of competing packers going in there. I think that was the basis for the criticism of packer ownership.

Mr. ASWELL. Do you know whether they are doing that now?

Secretary WALLACE. No; I can not speak from personal knowledge of that.

Mr. ASWELL. I wondered whether they had desisted from that practice.

Secretary WALLACE. Of course, under that decree, they are getting rid of their stock in the yards now.

Mr. TINCHER. The only possible excuse for not divorcing them from the yards would be to put the yards and the packers under proper regulation; but it seemed to me to be a good, big investment, and to be kindred to the packing interests, and I wondered whether, under proper regulations, the ownership of the yards was very material.

Secretary WALLACE. If you could have proper supervision I can not see where it is important one way or the other, but you must have really proper and efficient supervision.

The whole business has got to be such a tremendous business and so interrelated, that I think if you can get real supervision it is far better than to undertake to take it to pieces and separate it; and I want to say that the packing business is an absolute necessity to the carrying on of the live-stock business.

If we are on permanently higher railroad freight rates; for example, if the present rates should continue, the tendency of these rates will be to distribute this packing business much more widely than it has been distributed. It has been built up on the cheap long haul; so that we have been sending our cattle and hogs and sheep to a few large central markets because that seemed to be the economical way to do it; but if we are on a permanently higher, or a substantially higher, level of freight rates, then you have made it easier for the establishment of small packing plants scattered throughout the producing country.

But any legislation or any rules or regulations which really impair the efficiency of the packing business will cause hardship, not to the packers so much as to the producers, because the packer, if he continues in business, must have his manufacturing profit, and he is in a position to get that manufacturing profit. If he does not get it, his life in the business will be governed simply by the length of his purse. When he has used up his surplus he is out.

If you impose undue hardships or additional expenses or difficulties of doing business on the packer, he will pass those on to the producer of the live stock, so that while I regard it as absolutely necessary that you should have efficient, supervisory legislation, at the same time you have got to keep in mind all the time that the integrity of the packing business must be maintained for the interests of the producers and the consumers, even more than for the interests of the packers.

Mr. ASWELL. Mr. Secretary, will you discuss the proposition of a special commission as compared with having the Federal Trade Commission take charge of this matter?

Secretary WALLACE. I think the interests of the public will be served if you put all of this thing, and all of this control and regulation, in the hands of one supervisory body and not distribute it among several.

Mr. ASWELL. I mean that one of these bills gives the control to the Federal Trade Commission and the other gives it to a special commission.

Mr. CLAGUE. And one to the Secretary of Agriculture.

Mr. ASWELL. Yes; that has already been discussed.

Secretary WALLACE. Of course, the main argument for placing it in the Department of Agriculture, is that we have a number of activities in the yards and in connection with the marketing of the products. We have our Bureau of Markets, which has a number of men there, and our Bureau of Animal Industry has almost 400 employees in Chicago alone. I was there one night a month ago and sent out word that I would be glad to meet the employees of our department, and I think they told me there were 400 of them in the Bureau of Animal Industry alone connected with the packing plants there. So that we have got a very large organization dealing with the packing and marketing of meat products throughout the country, and I think that is one of the main arguments why the matter should be put in the hands of the Department of Agriculture.

Another reason is that the Department of Agriculture is looked upon, I think, by the farmers of the country and by the stockmen, as being, perhaps, more closely in sympathy with the agricultural business than any other department; and having, perhaps, a better knowledge of it than either the Interstate Commerce Commission or the Federal Trade Commission, or any other commission. I do not mean to boast of the Department of Agriculture, but I think it will be generally conceded that the department is looked upon in that way.

Mr. ASWELL. And I think rightly so.

Secretary WALLACE. We have a large number of people who are very well informed, certainly, on agriculture. So that, from that standpoint, I think it would be wiser to put this matter in the department rather than in the hands of some commission which was not so closely related to agriculture.

Mr. ASWELL. And it would probably be more economically administered.

Secretary WALLACE. Having a large number of men closely identified with that business, perhaps it would be more economically administered.

Mr. CLARKE. Mr. Secretary, with your employees out there, do you find any tendency on the part of the packers to refuse information or facilities for whatever their specific work is?

Secretary WALLACE. I think there are very few difficulties experienced by our men in carrying on their special work. But you understand that the work we do there now does not include the gathering of information dealing with the matter you are considering at all.

What we need, as I see it, to meet this situation is, first, such legislation as you have here in section 203; second, an organization which can enforce that legislation so far as it can be enforced; and third, such additional authority as may be needed—and I do not know how much that might be, perhaps none—to inquire into this whole thing. In

fact, I think you should approach this on exactly the same principle that you approached the matter of future trading.

There is a great deal of information we do not have, and have no means of getting now. I think we should consider this legislation or other legislation of this sort in this light: That our purpose is to try to put this business of killing and marketing live stock on a thoroughly sound business basis, having in mind the interests of the producers and the interests of every factor to the business, and the interest of the consumer at the other end.

As it is now, we are subject to very wide fluctuations. The price goes way up and production is encouraged in response to that price, and the result is we overproduce and then the price drops way down so far that production is greatly discouraged; and so we have these extreme ups and downs.

The farmers of this country could produce our live stock at a substantially lower price if you could take off these extraordinarily high prices and cut out the extraordinarily low prices and more nearly equalize the supply and the price. It seems to me we have got a great piece of constructive work in studying that whole game, and this is just a part of it. This is in one sense a beginning—the matter you are considering here.

You want to take away, as I understand it, any reasonable cause for complaint by the producer or consumer against the packer and against the stockyards and against the commission man.

Mr. CLARKE. Mr. Secretary, do not those same conditions obtain in every business in the country, whether it be individual or corporate or otherwise.

Secretary WALLACE. Not to anything like the same extent.

Mr. CLARKE. Not to the same extent?

Secretary WALLACE. No; nothing to compare with it. For example, in a manufacturing enterprise they can adjust their production to the probable need. They can measure and anticipate, to some extent, the possible demand and adjust their production to it. You have got that illustrated in the steel business, for example, where a year ago your steel mills cut down their production about 35 per cent, anticipating the lessened demands. You have there a much more stable business than you have in either the live stock or the grain business.

Mr. CLARKE. What I had particularly in mind was that I know of a manufacturer in New York State who has had his agents throughout the country for the last three months, I think, and he has told me that in hardly a single place has he been able to secure any sales.

Secretary WALLACE. Of course we have a very unusual condition in the country just now.

Mr. CLARKE. I realize that.

Secretary WALLACE. But, speaking generally, the production of live stock and the production of grain are subject to more violent fluctuation, wholly without regard to cost of production, than any other business in the whole country.

Mr. GERNERD. In fact, the cost of production is not taken into consideration.

Secretary WALLACE. It is never taken into consideration and has not been taken into consideration on the part of the buyer; no.

Mr. GERNERD. After all, Mr. Secretary, is not that the basis that this country has got to go upon in the growing of crops and the raising of cattle? Has not a price stabilizing cost of production got to be realized before there is going to be real prosperity and happiness in this country?

Secretary WALLACE. I think there is no question as to that. I do not mean to say that we can set up a price.

Mr. GERNERD. No; I do not mean a Government fixed price; but putting the business on such a basis that they can approximate, certainly, a price that will be based on cost of production.

Secretary WALLACE. Yes.

Mr. TEN EYCK. It is not your idea, of course, Mr. Secretary, that we can legislate prices in any way.

Secretary WALLACE. No; not at all.

Mr. TEN EYCK. But by giving a certain bureau more power and with proper regulatory laws, we may bring about a better understanding between the packer and the farmer, and thereby keep a more even level of prices.

Secretary WALLACE. If you can begin by eliminating abuses which have crept into the business, that is a good beginning, and gradually as we get into that matter and get more information and study it from the affirmative and constructive side, we will learn a little more each year and perhaps in time may be able to——

Mr. TEN EYCK (interposing). Bring about a better understanding.

Secretary WALLACE. Yes; unquestionably.

Mr. ASWELL. Mr. Secretary, the dominant idea in the grain futures bill was that of publicity. Is it your opinion that that should be the dominant idea in this bill?

Secretary WALLACE. I think there should be very free publicity in this bill; yes.

Mr. CLAGUE. That, together with general regulations.

Secretary WALLACE. Yes; you have got to have the necessary authority.

Mr. ASWELL. Publicity does a lot toward regulation.

Mr. CLAGUE. Yes; I agree with you on that.

Secretary WALLACE. Publicity will naturally follow the operation of this law.

Mr. ASWELL. And publicity will help to regulate.

Secretary WALLACE. It will help; yes.

Mr. MCLAUGHLIN of Nebraska. Mr. Secretary, a while ago you were suggestiong that the entire supervision of the law be placed under one head. I was interested in that because it has occurred to me there might be a number of instances arise where there would be conflict as to authority. For example, suppose you wanted to investigate a wiring-on process, which has been an evil in the past, or suppose you wanted to investigate what seemed to be an intentional delay in weighing for the purpose of getting greater shrinkage, you would start an investigation along those lines, you would find after pursuing that line a while, that it led into the stockyards, and that the fault was probably there. Then you would have to call in the Interstate Commerce Commission or whatever other body was the supervising power for that part of it and turn it over to them from that point, and in the case of a hearing involving both packers and stockyards, there might be a possible case of disagreement between

the two supervisory bodies as to what was the proper course to pursue, and therefore, occasion delay if not even friction. So it seems to me there are many reasons why your contention is valid, that the supervisory authority should be placed in one head or in one department.

Secretary WALLACE. Well, take a practical illustration. Here is a commission firm that has a bunch of stock which is sold for one of its customers, and for some reason or another there is a delay of two or three hours in getting that stock to the scales after the sale has been completed. Now, you understand that any delay in selling after the sale has been completed is usually to the disadvantage of the seller, because the cattle or the hogs are shrinking. If you have one supervisory agency and that agency has a head man at the yards, what would be the procedure in a case of that kind? He would informally call in these people that afternoon or that evening while the thing is fresh, and they would settle the matter. If it was clear that damage had been done to this shipper because of that delay they would probably settle it right there and adjust the matter and be done with it. Suppose you have the authority there divided and the commission men are under one agency and the stockyards under the other agency. You have got to bring a complaint. You have got to show evidence as to the loss suffered and all that sort of thing, and then it comes on for a hearing some time afterwards, and possibly before some man who does not understand the practical operation of the yards. You know that business there is done in a sort of rough and ready way, and done quickly, and on the mere nod of the head or a word. It is quite different from many other lines of business.

Mr. ASWELL. Mr. Secretary, is it important as to who owns the refrigerator cars?

Secretary WALLACE. I will have to confess I can not contribute much light on the refrigerator car proposition. It is important that the refrigerator cars be available promptly and that they be kept clean and that they be properly iced, and that everything about them should be kept in a highly efficient state, but whether the packers own them or the railroads own then, they must be available and they must be kept in fine condition. I think the objections to the ownership of the refrigerator cars by private concerns are that it gives them an undue advantage. On the other hand, I was talking to a small packer in Des Moines about that matter and he says that the difficulty with the refrigerator cars owned by the railroads is that they come to them dirty. They are not maintained, and they have a great deal of difficulty because of that. I do not feel competent to discuss that phase of the matter, gentlemen, I will tell you frankly. I have looked into it a good deal and studied it a good deal, but I do not know.

Mr. GERNERD. There can not be many abuses along that line or we would have heard from them.

Secretary WALLACE. There has been a great deal of complaint, and I think in times past a great deal of that has been justified, as to the use of the refrigerator cars and the advantage it gives over a small concern which is not able to maintain them.

Mr. TEN EYCK. Would it be advantageous, if this authority was put under the Secretary of Agriculture, to give him some power with regard to the inspection of those cars when they are delivered for use, and with regard to any delay in delivering the cars.

Mr. ASWELL. That is up to the Interstate Commerce Commission.

Mr. TEN EYCK. The inspection of the car is not up to the Interstate Commerce Commission. The delivery of the car is up to the Interstate Commerce Commission, and it might be well in this bill to delegate to the Secretary of Agriculture authority to see that these cars are properly cleaned and so on. I think it is a good thing for the consumer to do that.

Secretary WALLACE. Of course, they must be kept in a thoroughly sanitary condition.

Mr. GERNERD. But to-day there is no supervisory work being done, so far as inspection of the refrigerator car is concerned, is there?

Mr. TINCHER. Oh, yes.

Secretary WALLACE. I think the packers exercise a great deal of care about that.

Mr. GERNERD. I mean governmental supervision.

Secretary WALLACE. I could not answer that.

Mr. TEN EYCK. We are talking now for the independent men who have to hire the railroad cars.

Secretary WALLACE. I can not answer as to how they are inspected, but the packer who gets them, for his own protection, makes sure that they are clean and sanitary and properly taken care of.

Mr. TEN EYCK. Yes; but he should not be put to that expense. That is an additional expense to the independent packer as against the large car owner.

Mr. ASWELL. Does not the large packer have to keep his cars clean as well as the small one?

Mr. TEN EYCK. Yes; but he puts that into the cost of operating that car and makes a profit on the car or at least runs it without a loss; but when you hire the car and pay the same freight to the railroad that the other man does, who is making a profit or at least running his car service without a loss, any additional cost put upon the independent man to clean the railroad's car is an additional cost to that man.

Mr. CLARKE. I think that is largely theoretical.

Mr. TEN EYCK. There was testimony here to the effect that that was one of the bad features about it.

Mr. MCLAUGHLIN of Nebraska. Railroad-owned refrigerator cars are now inspected under the pure food act.

Mr. ASWELL. Yes.

Mr. TEN EYCK. I was merely bringing out the point that it has been stated that these cars come in in bad condition and that they were not doing their duty if that was the case.

The CHAIRMAN. Mr. Secretary, I understood you to say that you would be in favor of substituting the Secretary of Agriculture for the Interstate Commerce Commission.

Secretary WALLACE. I think, Mr. Chairman, it would be wise to put it under one supervisory body.

The CHAIRMAN. Have you any other suggestions or any other amendments to the various bills that are before the committee that you would suggest?

Secretary WALLACE. No; I have not, Mr. Chairman. These bills are the result of prolonged hearings. You gentlemen have given great attention to the drafting of the details. A large part of the bills deal with the machinery for administering them, concerning

which I am not any more competent than you are to express an opinion upon. After you have completed your deliberations and have drawn the bill in final form, I should like the privilege of going over it rather carefully, and, perhaps, talking with you again about it; but until you have reached that point, I do not know that I can contribute anything that will be of benefit to you.

The CHAIRMAN. I might say that in drafting the bill no one seemed to have any particular interest in whether the stockyards should be placed under the Interstate Commerce Commission or not.

Secretary WALLACE. I understand that.

The CHAIRMAN. As stated to you, it was thought that they were a part of the transportation system, and it was thought that possibly the Interstate Commerce Commission might be the proper body in which to lodge such supervision; but with the department activities already in the stockyards and with the department's splendid accomplishments in the stockyards, hence the idea of giving all the authority to one body. I do not believe there is any serious difference of opinion among the members of the committee so far as that goes.

Secretary WALLACE. I understand that. I am quite sure you are simply trying to do the practical thing, and, of course, logically the disposition is to say that the stockyards should be considered as a part of the transportation system, but in the practical operation of this measure, I am rather inclined to think it would be better to put it all under one supervisory agency.

Mr. CLAGUE. Mr. Secretary, there is one question you spoke about that I would like to have you elaborate on a little further. These bills, or at least some of them, provide that none of the packers shall own any stock in the stockyards. As a shipper of live stock and being vitally interested in this measure, is it not better that the packers have the right to own some of the stock of stockyards for the purpose of keeping up those stockyards; in other words, so that they would have more interest in keeping those yards in first-class condition? What we want is the regulation of them.

Secretary WALLACE. Yes.

Mr. CLAGUE. And is not that what we need more than being interested in who owns them?

Secretary WALLACE. If you could have thoroughly efficient regulation, the ownership is of very much less importance.

Mr. CLAGUE. That is the point I wanted to get at.

Secretary WALLACE. Yes.

Mr. TINCHER. Mr. Secretary, the consent decree that they entered into, as I understand it, prevented the packer from selling meat or any of his products to any one for consumption unless that person be an employee of the packer. I have always had the idea that that was consent legislation by decree that ought to be repealed by law. Do you not think that under proper supervision of the packing industry and with proper protection of the consumer, that matter ought to be left to regulation and that the packer ought not to be forced to sell his products to others than the consumers?

Secretary WALLACE. Inasmuch as I said at the time, publicly, I thought that the forbidding of the packers doing retail business destroyed about the last hope of cheapening distribution, I suppose I will have to answer your question in an affirmative way.

Mr. TINCHER. I did not know you had said that, Mr. Secretary, but it shows how great minds will run together.

Mr. PURNELL. The question is who is the other mind?

Mr. TINCHER. I had the pleasure of telling Mr. Palmer that before this committee.

Secretary WALLACE. Of course, we know the old-time objection of the packer going into the retail business. We know how he drove out the local butchers years ago by selling at less than a fair price, and yet if we are ever going to get at the cheapening of distribution, it seems to me, finally, we will work that out with the assistance of the packers, and the same thing is true in this matter of shipping other things in your refrigerator cars, which was also a part of that decree.

Mr. JONES. Mr. Secretary, if you have not already covered the question, what do you think about the wisdom of the consent decree forbidding the packers from engaging in unrelated products and the distribution of unrelated products?

Secretary WALLACE. Well, that opens up a big subject.

Mr. JONES. If you do not care to go into that, that is all right, but I would simply like to have your opinion, if you feel in position to give it.

Secretary WALLACE. I am willing to say this, gentlemen, as the business of this country grows, and I am not speaking now of the packing business any more than of many other lines of businesses, I think we have got to take a somewhat different attitude as to men building up large enterprises. Where they contribute to efficiency and to reduced cost of distribution, I think our general policy should be that that shall be permitted under thorough supervision and regulation.

Mr. JONES. In other words, if they simply have the same facilities and no special favors, there should be no limitation as to what business a man or an organization may go into.

Secretary WALLACE. Of course, as I say, you are opening up a very large question there that I hesitate to undertake to discuss in any detail now.

Mr. MCLAUGHLIN of Nebraska. Mr. Secretary, your statement with reference to the future attitude of the Government or of the public toward large business interests suggests to my mind this question.

Let me say, first, that the packers, the commission men. or any others that are opposed to this regulatory legislation seem to be especially opposed to the provision in any of the bills where it is provided that the supervisory power may have authority to make rules, regulations, and orders for the purpose of carrying out the provisions of the bill. They seem to believe that everything in the way of a discriminatory practice should be specified in the bill and made a direct matter of law. They seem to have great fear of the rules, regulations, and orders. My thought has been that the evils of practices that obtain in a great business of this kind are so varied and so changeable from time to time, as a result of conditions, that in order to have an effective supervision it is absolutely necessary for the supervisory power to have the authority to establish rules, regulations, and orders from time to time for the purpose of enforcing the law. It does not seem to me that such a clause in the bill affords

any occasion of fear of unduly exercised power on the part of the supervisory authority. I should like to have your opinion on that subject, if you care to state it.

Secretary WALLACE. I think I agree with you, as I understand your position in the matter, and yet I can, I think, understand why those objections are raised. We all know of what is seemingly unwarranted interference with the conduct of business. It is quite natural that men should fear such a thing, and yet, if you are going to administer this law in an intelligent, efficient, and common-sense way you have got to lodge discretion in the hands of the supervisory power. I see no other way. I think the attitude of the packers is understandable, just as their attitude against any legislation is understandable. Those men started in a small way, back 30 or 40 or 50 years ago, and they have built up a tremendous business and they have done it as a result of business initiative and enterprise and naturally they say, "You have no more right to regulate us than any other business." They fail to see that they have acquired such a dominance in the meat industry of the nation and the world, and while in one way they are not public utilities, in another way by reason of this dominance they must come under the provisions that you propose here.

Mr. MCLAUGHLIN of Nebraska. In most instances these complaints, as you stated a while ago, would be adjusted in a friendly way around a conference table?

Secretary WALLACE. If your supervising agency recognizes a general business that is being carried on as a useful business, necessary to the life of the nation, I can not conceive of him imposing regulations that unnecessarily and unfairly interfere with the orderly and proper conduct of that business.

Mr. MCLAUGHLIN of Nebraska. Under the provisions of all of the measures those believing that such unfair orders have been issued or advantage taken of them would have recourse to the courts?

Secretary WALLACE. Certainly; yes, sir.

Mr. ASWELL. I receive letters almost every day from prominent men, practically saying this, "Cut out the meddling work, let business alone." What do you do, Mr. Secretary, when you get them, as I presume you do?

Secretary WALLACE. I laugh; usually.

Mr. ASWELL. These are serious letters.

Mr. TINCHER. The same fellows probably wrote letters against interfering with business when we were legislating to cut out the rebate, as the man testified before the committee.

Mr. RIDDICK. Mr. Secretary, one of the provisions of this bill, it seems to me, is very practical, and that is making shipments on certain days in order to prevent congestion in the stockyards. I have had this experience, coming from the far West, that when the people reach the stockyards with their cattle there is a great congestion, compelling them to sell the cattle at low prices and when the buyers can take in the cattle at much less than they are worth. There is a feeling among the raisers of cattle that the real grievance they have is the violent fluctuations, that the market will go along steady for a week or two and then have a drop-off when the packers are able to buy a tremendous stock at much less than its value. Do you think

there is any practical legislation that can provide for an even flow of stock to the markets?

Secretary WALLACE. No; I do not. What is more, I made a study of the rates and prices of livestock at Chicago during that period of the war when we shipped by the zoning system, regulating the supply, and while the supply was more evenly distributed during that time we never in all our history had such violent price fluctuations as during that period. Apparently, the people thought that the equalization of the supply met the situation, but as a matter of fact the price fluctuations were the most violent in all the history of the livestock business. I believe that the people do not understand what happened.

Mr. RIDDICK. Do you think that legislation is warranted to correct the price fluctuations?

Secretary WALLACE. It is hard to say. It many cases it would not be warranted, I think. I want to be frank, the more I consider this business in a superficial way the less I seem to know about it. We lack that close-hand study of the whole operations that we must have if we are going to approach the solution of the question with real intelligence. We assume that because they ship a lot of stock on one or two days that that is responsible for the fluctuations. If you are going to succeed in an effort to adjust the supply to the demand and to make an even flow, you have to go back to the time when the live stock is born. I would view with great apprehension any effort by legislation or by regulation to adjust the daily supply at the markets. I think that that trouble goes far back——

Mr. TINCHER (interposing). Right on that line, Mr. Secretary. I do not know of any man who shipped stock while we were working under the zoning system who would approve, from the experience he had in the shipments, of a regulation that would contemplate a repetition of any such occurrence. If there is, I should like to have his name and address and what he is talking about put into the record before we close the hearings. I agree with the Secretary and it supports the theory we have that the packers should be regulated, that we had the greatest fluctuation in the markets that we ever had in the industry.

Secretary WALLACE. We never had anything like it before.

Mr. RIDDICK. Is it not true, Mr. Secretary, that prices go down just when the stockyards are congested with unusual shipments?

Secretary WALLACE. No; it is not always. If you are interested in that, I will be glad to take up a study with you covering a period of 20 years. We took each day of the week and studied the receipts and prices. When you gentlemen come to take the averages you would be surprised at the almost insignificant difference in price one day from another when you come to deal wtih it in a large way. As in other matters we frequently form our opinions on the daily movement without knowing the average trend. Such studies as I have made in the past have tended to modify my views on a number of things as to what we need. One of the biggest benefits that will come out of this effort will be an actual knowledge of the manner in which business is conducted so we may look at it in a large way and judge it in a large way instead of being influenced by our impressions based on this day or this week or next day or next week.

Mr. CLARKE. How far does the Government go now in furnishing information to the producers and shippers as to shipments or whatever information is available?

Secretary WALLACE. We do issue a great deal of statistical information daily. I will be glad to send you copies of that material that we put out. The difficulty is that that is not interpreted—too often just a lot of figures. It is my desire to put the greater part in shape and interpret it and to have it done much better than now. I do not mean to criticize the work that we are doing; it is excellent, but we have to go further than we have so far.

Mr. KINCHELOE. There are three bills pending before the committee. The Anderson bill provides that the supervisory power shall be in the hands of the Federal Trade Commission. The Haugen bill provides that the supervisory power shall be under your department, and, I think, the McLaughlin bill provides for a special commission to be appointed by the President. Have you a conviction as to which would be the best tribunal?

Secretary WALLACE. I spoke of that a little while ago before you came in. I think it is very important that the authority should not be distributed in different organizations or commissions and that the supervisory authority should all be lodged in one commission. There seems to be some good reason why it would be better to put it in the Department of Agriculture, because of the large activities we already have that will mesh into any new legislation or supervision. We have men, for example, in all of these stockyards now, large numbers of them, something like, as I remember, 400 in that one enterprise in Chicago.

Mr. RIDDICK. The Government pays those 400 employees and not the packing companies?

Secretary WALLACE. Yes; the Government.

Mr. JONES. In connection with the question that Mr. Riddick was asking you a little while ago, I have heard a great many stockmen in my country complain that when they ship stock to a market and have rejected the bid that is made, if they undertake to rebill those cattle to another market, the men who made the bid notify the other market and they refuse to increase, in fact, often decrease the bid at the other market on the specific cattle, that the information is conveyed by the companies from the local market to St. Louis or Chicago or to the place where the cattle is rebilled. I wondered whether you had had any such experience?

Secretary WALLACE. You can get a great deal of testimony to show that that has been done in the past, many times.

Mr. JONES. In other words, force them to sell on a congested market by keeping the bidders in the other markets advised?

Secretary WALLACE. I think you will find in your printed hearings quite a little testimony along that line from men who have had actual experience, personally, I take it.

Mr. TINCHER. "Wiring on." That is, they wire on that the market is congested and not to bid over a certain amount.

Mr. RIDDICK. I understand that your study has convinced you that congestion at a local market does not cause these prices?

Secretary WALLACE. No; I do not mean to say that. Of course, it does at times cause fluctuations. What I mean to say is that the fluctuation during week days is very much smaller than people gen-

erally suppose. As I remember, the difference on the average was a very few cents per hundred pounds.

Mr. RIDDICK. While there is open competition on the market anyone can go in and buy a bunch of steers in competition with the packers, of course; but after all, they are the only ones who have facilities to take care of the large numbers of cattle that come in, and to that extent there is a monopoly. There is a common impression among stockmen, I know, that the packers are able to pay just about what they want to pay, and when there is a large supply on any local market it does bring about price depression—a price below the average market value. Do you think that is an evil that could be corrected by legislation, or is that controlled by the law of supply and demand?

Secretary WALLACE. If we had the authority and the organization to just follow the cattle through from the time they are sold to the packer until sold to the consumer, and could make a really constructive study of the whole operation, we would know very much better how to correct some of the practices.

Mr. RIDDICK. After all, publicity is the one real thing that is needed?

Secretary WALLACE. That is certainly very helpful. Publicity does not cure all of these things. We had a great deal of publicity about the retailers taking profits, but yet they seem to continue. However, publicity would be very helpful.

There is one point that I have been trying to make here. I do not know whether I have succeeded or not, and that is this, that in these periods of depression whether in live stock or grain or anything else, when everyone who is suffering is trying to find relief from it, the tendency is to legislate, having in mind only the immediate conditions. If we are going to approach this matter with a view to improving the system generally, not only in periods of depression, then we need a constructive study of the whole thing. That is something that we are lacking now. We have not the information that we must have if we are going to undertake to deal with this problem in the large way. I assume that this bill is the beginning, giving us the opportunity to make that sort of a study. There are a number of things that you can not legislate on now and feel sure that you have done the wise thing, but if you go as far as you have in this bill, and as you have in some others, and lodge the authority in the hands of one body and remove others from the field and open up the way to make this sort of a study, then I feel that we will make real progress.

Mr. PURNELL. Leaving out the question of fact as to whether this can be more properly conducted under the department, from a dollars-and-cents standpoint, the law could be more economically administered through the Department of Agriculture than by the creation of a separate board or commission or by giving it to an already created board?

Secretary WALLACE. Well, I should think that that was probably true.

Mr. PURNELL. I think that is one angle that we have to look after very carefully, because it will cost considerable money to properly make this study and investigation?

Secretary WALLACE. Yes, sir.

Mr. TINCHER. As I understand, the Senate committee, the same committee that reported out and had passed the Kenyon bill creating a new commission, has reported out a bill, beating us to it, placing the authority in the Department of Agriculture. I think they only guessed about what we were doing over here. They had no hearings.

The CHAIRMAN. With a provision for a commission under the Secretary of Agriculture.

Mr. TINCHER. They really do not know.

Mr. ASWELL. There seems to be some value in the point which Mr. Anderson made that the Federal Trade Commission is now having some sort of supervision over the general industry and that the Department of Agriculture would also build up a system which might be conflicting and confusing. That seems to be one of the important points. You understand what I mean?

Secretary WALLACE. I agree with you except as to the conflicting statements, I think there is some doubt.

The CHAIRMAN. As you understand, the consent decree divorced the packers from the ownership of the stockyards, and in drafting the bill the subcommittee thought better to leave out the packers referred to in the decree?

Secretary WALLACE. Yes, sir.

The CHAIRMAN. Do you think it is advisable at this time to open up the question of the consent decree?

Secretary WALLACE. Well, your judgment on that, Mr. Chairman, is better than mine. Supervision is the big thing.

Mr. VOIGT. Mr. Secretary, as a general proposition, do you believe in settling these questions by decree of the court for an individual industry?

Secretary WALLACE. I am not competent to express an opinion on that, because I know so little of courts and decrees.

Mr. TINCHER. In this decree the Government brought an action and the Attorney General said some of the charges were based on existing law and some of the charges, he thought perhaps, were not covered by the law. The packers and the Attorney General got together and agreed to the decree. Some portions of the decree, we know, were not in accordance with any law. You do not believe, Mr. Secretary, that this Government is headed for laws by decree?

Secretary WALLACE. Well, if you want my opinion, it is not favorable.

Mr. TINCHER. I do not think that we should pay any attention to the decree in passing this legislation. For instance, the decree provides that a packer shall own no interest in the stockyards or any of his immediate associates. That would not be a necessary provision if we had proper regulations, and certainly, if it is necessary to do it other than by implication, Congress ought to repeal that part of the decree that prohibits the distribution of the products of the producers so the consumer can get the products at the right price. I do not think it would be necessary in the law to mention the decree, but I think that the law should be specific on that subject. It should be generally understood by the country that Congress is not legislating pursuant to a decree, but rather pursuant to the public needs.

Mr. VOIGT. When this decree was consented to by both parties there was no testimony taken. The court ordered that within a period of two years the five big packers should divest themselves of any interest in the stockyards and also that they should thereafter not engage in certain lines of business. Do you think it is a good precedent for a court to establish a rule of that kind for a certain industry or certain parts of an industry when that decree is not made pursuant to any law; that is, the court makes the law in the case?

Secretary WALLACE. I know nothing about these matters of which you speak. My impulse is to say no. I do not think that is important, as I regard my opinion as valueless on that matter. In this particular case I think it was unfortunate that included in the agreement the packers were prohibited from having to do with the retail meat business; I think that was decidedly unfortunate.

Mr. VOIGT. Not only that, but they were also barred from certain wholesale lines?

Secretary WALLACE. Yes, sir.

Mr. VOIGT. That may be a good thing and it may not be, but the question is whether it is a good policy to permit a court to come along and to say to five big business concerns in this country that they shall not do a given thing.

I want to ask you another question. You believe, of course, that these packers should be put in actual competition with each other?

Secretary WALLACE. Well, of course, I believe in absolute, free competition. So far as you can do that by legislation I think it ought to be done; yes.

Mr. VOIGT. Do you not think that any bill reported by this committee should give the supervising agency power to make such rules and regulations as to prevent any two packers from combining for the purchase or sale of their commodities?

Secretary WALLACE. Yes; although you are opening up there a question that we will be facing within 10 years. Of course this is no time to discuss it, but I think the time is coming when if we can successfully establish real Government supervision you are likely in the future to permit many things that we now forbid.

Mr. VOIGT. I agree with you, when there is sufficient supervision.

Secretary WALLACE. When you have real supervision; yes.

Mr. VOIGT. But the report of the Federal Trade Commission finds that the five big packers for many years have been, and are now, in an agreement for the purchase of live animals. Do you think, assuming that is true, that that has been a good thing for the farmer and for the public?

Secretary WALLACE. No; certainly I do not think it has been a good thing.

Mr. RIDDICK. Have we not a law now covering that matter, if that fact could be proven?

Secretary WALLACE. You know better about that than I do, Mr. Riddick.

Mr. RIDDICK. I assume the Sherman antitrust law prevents collusion for improper purposes.

Mr. TINCHER. Who did it ever prevent from "colluding"? They tell me that no one ever went to jail under that law.

Mr. CLARKE. Is not that a criticism on the Government, then, if there be such a law?

The CHAIRMAN. Mr. Secretary, one contention is that in order to force out the small packer and to compel the dealers to buy the products of certain packing houses, they establish markets next door and engage in the retail business, thereby obtain a monopoly and drive others out of the business. Have you any knowledge of that?

Secretary WALLACE. I think I did not catch your full question.

The CHAIRMAN. It is alleged that the practice of certain packers, in order to drive out the smaller packers or to force the retailers to buy their products, is to establish a market, to engage in the retail business next door, and in that way undersell and force them out of business or force them to buy from them.

Secretary WALLACE. Of course, we are all familiar with what happened in years past along that line.

The CHAIRMAN. I take it that is what they had in mind when that complaint was made.

Secretary WALLACE. Yes.

Mr. RIDDICK. Mr. Secretary, in your study of the prices paid for live stock from day to day over a period of time, did you also study the wholesale prices charged?

Secretary WALLACE. No.

Mr. RIDDICK. Would not that throw an interesting light on the subject?

Secretary WALLACE. Of course, we have at times made comparisons, but you see we do not have sufficient information to accurately measure those things. Let me give you an illustration: At a time when hogs were dropping heavily, the prices of pork loins were going up right along at retail. The temptation is to play that up as an iniquitous thing that is happening, but when you pursued the entire product of the hog, when you took the bacon and the hams and the rib sides and the lard—and, of course, you have got to take all of those things into consideration—we found, and I am not sure but it may be true now, that the prices of bacon and hams are high relatively to the price of the live hog, but, on the other hand, the price of lard is low relative to the price of the live hog and the price of rib sides is low relative to the price of live hogs.

There is danger in forming a snap conclusion if you take only one of those products. You have got to make a constructive study of all of it, and there is where we are weak because we have not the foundation for making that study.

Mr. RIDDICK. I think that one of the important things is to learn more about the wholesale prices.

Secretary WALLACE. Yes; I think so.

Mr. RIDDICK. I think most of the complaints from the public about the packers come from the prices paid for the product at the retail stores, and from a superficial knowledge of the prices paid to the producers, and I know from a very superficial study of the matter that I can pay four different prices for beefsteak between my home here in this city and the Center Market, and yet I presume all of those people are paying exactly the same wholesale price, and yet one price will be almost 50 per cent less at retail than the others.

Secretary WALLACE. Yes. If we are ever going to really get anywhere on this matter, we have got to do it in a larger way than we have undertaken to do it so far. I was looking at a chart last night—

this is not germane to this matter at all—showing a study of prices of the four great starch-producing crops in their relation to wars, covering a period of 200 years. It was a very illuminating chart, showing the effects of prices on the four great starch producing foods, and also the effect of the pressure of population on the production of farm products and on wars.

It seems to me that the Government should provide means and agencies for making thorough studies of all of these great movements, not only in relation to the manufacture and distribution of meats, but of a great many other things that affect our national life. That is more important now than ever before in our history, and this effort you have made in the grain future trading act and this effort you are making here to bring the packing and distribution of meats under supervision, are very, very necessary in my opinion, because we are undergoing profound changes now that are going to affect our national life for a century to come, and we are not making the thorough studies of those changes that it is necessary we should make for the benefit of our people.

The CHAIRMAN. Mr. Secretary, one suggestion is that a live-stock commission be created or a commission placed in the Department of Agriculture under the Secretary. Have you any suggestion as to that?

Secretary WALLACE. I have not seen anything on that, so I am not competent to express an opinion. If you do something of that sort I hope you will not set up a sort of independent commission within the department purely because of the administrative difficulties involved.

The CHAIRMAN. The thought was to create a commission and put it under the department.

Secretary WALLACE. Of course, if you should make the department the supervisory agency, we will have to set up an organization within the department to do the work.

The CHAIRMAN. And the Secretary of Agriculture should be held responsible.

Secretary WALLACE. Yes.

The CHAIRMAN. And the Secretary is responsible to the President.

Secretary WALLACE. Yes.

The CHAIRMAN. And we do not want any division of responsibility.

Secretary WALLACE. That would add to our administrative difficulties and I hope that will not be done, although, as I say, I am not talking about what may have been done here, because I do not know what has been done in reference to that. I am just speaking of the general principle that the more we can fix authority the better we can administer this or any other law.

Mr. TINCHER. Mr. Secretary, it has been suggested that the bills all contemplate the regulation of the commission man, who, to some extent at least, is or should be the agent of the producer, and I have been asked to ask you the question whether you thought the regulation should apply to him as well as to the stockyards.

Secretary WALLACE. I do, absolutely; yes, sir.

Mr. TINCHER. If his business is perfectly legitimate and proper and if the regulations are legitimate and proper, then this regulation would not hurt him in any way.

Secretary WALLACE. I think you should give supervisory power over all the agencies which come in contact with this business.

Mr. CLARKE. In other words, looking at the great big business as an entity.

Secretary WALLACE. Yes; it is an entity, and a business that is very necessary to us, and we should try to see that it is administered efficiently and economically, and on a basis that will give the producer a price that will enable him to maintain production, and at the same time give the consumer his meat at the lowest price consistent with a price that will maintain production, and we have got to have in mind the interests of both, as well as deal justly with all those who function between producer and consumer.

Mr. GERNERD. There must be an equal balance.

Secretary WALLACE. There must be; yes, sir.

Mr. KINCHELOE. Mr. Secretary, are there any provisions in any one of these three bills that you think are too radical or that should not be in there?

Secretary WALLACE. I have not been able to give a close enough study to the bills to enable me to answer that question, but I expressed the hope that we might have an opportunity to study the bill you finally decide is a proper bill. I would like to have time to do that, not that we want to interfere with your operations, gentlemen, but if you lodge supervisory power with us we would like to cooperate with you.

Mr. GERNERD. And we want to cooperate with you.

Secretary WALLACE. Mr. Chairman, I believe that is all I have to say.

The CHAIRMAN. We are very grateful to you, Mr. Secretary, for appearing before us.

Secretary WALLACE. I thank you.

The CHAIRMAN. Who is your next witness?

Mr. CREIGH. Mr. Chairman, I understand Mr. Veeder has been called away. There are a number of these packer witnesses here. Gen. Ryan, of Cincinnati, I believe, is the next one on our list.

The CHAIRMAN. You are in control of the time, and we will be pleased to hear from him.

STATEMENT OF MR. MICHAEL RYAN, OF CINCINNATI, OHIO.

Mr. RYAN. I believe I am familiar to your worthy chairman, Mr. Haugen. The courtesy he showed me a year ago when appearing before a similar body is a pleasant memory, and I have thought of you ever since, Mr. Haugen, and I was very glad to read in the papers that you were reelected to come back again. I just thought then that the Democratic voters in your constituency must have mistaken the name of Haugen for Hogan [laughter], and whether Republican or Democrat, they voted for their countryman.

Now, sir, I represent the packers of old Cincinnati. Cincinnati is proud of being the birthplace of the packing industry. It was a long time ago, and some of her lusty western cities have taken the advance largely in that industry, but we are still down there doing business at the old stand, and I come representing the packing interests of the city of Cincinnati and southern Ohio, and part of the State of Ken-

tucky, to protest against what is called antipacker legislation. I do not know whether it is meant that way or not.

There is scarcely a newspaper you take up that is not headed by antipacker legislation. I do not think that it is the intent or purpose of Congress to antagonize the packers in any way, and I do not know that the packers are guilty of flagrant violations of law so as to justify harsh and drastic measures being enacted against them.

Some abuses may creep into our business as in many other lines of business, but we have laws sufficient, Federal and State laws, to punish the offenders, and why should the packers be singled out from the other industries of the country to be put under Federal control and according to the scope and substance of the bills now before you, that is nearly akin to martial law.

Gentlemen, I have the old fashioned notion that legislative functions should be extended to private industries as little as possible. I believe they will work no good to the public or to the industry and will result in failure.

There is such a thing as legislating a business to death, and that seems to me to be the case with the packers, and if this constant legislation and agitation keeps on, I am not a prophet of evil, but I will say that in five years time that great packing industry will be wrecked.

This is not an opportune time, gentlemen, for introducing experimental legislation. The whole world is in a state of paralyzation. Industry is very much depressed. I have been in the packing business all my lifetime. I have gone through hard times and panic, but I have never experienced anything like this before. I can only look at it as a great commercial earthquake that has spread all over the civilized world and has shaken the basis of every industry, and I want to tell you, although I guess you know it, the packers have not escaped it. They have been hit very hard within the last six or eight months, and their affiliated industries have suffered very, very severely. The war profits, in many instances, have all disappeared, and more with them, but nevertheless, as Americans, we determined to take our medicine, grit our teeth, go right to work again and by new vigor and energy endeavor to recoup our losses.

But, gentlemen, I want to say to you that instead of being discouraged we want to be encouraged by our lawmakers. We want to have a free hand in our business, and as some of these bills propose, not all of them, but some of them, if they are enacted into law, we are fettered hand and foot in such a manner that we can not conduct our business.

If you gentlemen had practical experience of the vicissitudes and the uncertainties of the packing business, you would not consider putting these restrictions upon them. It would be very discouraging, under some of these bills that are before you, if we have at our shoulders all the time detectives, spies, petty tyrants, when on the most trivial violation of any of the technical laws, we are hauled before the courts and placed in litigation involving lawyers' fees, endless injunctions, etc.

If you want to do us a great favor, if you want to help us along, gentlemen, keep your hands off the packing industry, for the time being, at least, and let us work out our own destiny the best we can.

With these few preliminary remarks, gentlemen, I will be very glad if any of you would ask me any questions that may occur to you.

Mr. JONES. Mr. Ryan, most of this legislation you speak about, the actual legislation, has been confined to the newspaper headlines you spoke of. There has been no actual legislation regulating the packers.

Mr. RYAN. I have looked over the bills and it seems to me that in some of these bills the control of the business is taken entirely away from the packers.

Mr. GERNERD. Take, for instance, the Haugen bill, how does that take away your freedom of action?

Mr. RYAN. If any of the bills have mitigation about them, it is the Haugen bill, but there is also pending the Norris bill and the Anderson bill. The Norris bill appoints a commission. That commission is to be composed of three gentlemen paid $10,000 a year, with secretaries, attorneys, and officials, and under such a measure they will want a number of officials in every establishment in the United States in order to enforce the law.

Mr. GERNERD. You heard Secretary Wallace give his views about this matter? There was not anything extremely radical about his view of the matter.

Mr. RYAN. What I heard from Mr. Wallace was simply referring to the stockyards and the live-stock industry. I have not got any interest, nor have the packers of Cincinnati any interest, in stockyards.

Mr. GERNERD. I appreciate that, but it is all interallied.

Mr. RYAN. Yes; there is a relationship.

Mr. GERNERD. You have read the Haugen bill?

Mr. RYAN. Yes, sir.

Mr. GERNERD. With all your experience, Mr. Ryan, would you say there was anything radical about that bill or anything drastic, or anything that would in any way interfere with the operation of your business?

Mr. RYAN. The bill puts the supervision of the packing industry under the Secretary of Agriculture, does it not?

Mr. GERNERD. Only from the standpoint of obtaining information for the benefit of the Nation at large.

Mr. RYAN. The Secretary of Agriculture is at the head of the inspection bureau at the present time.

Mr. GERNERD. Yes, sir.

Mr. RYAN. And he has access to all the packing houses in the United States at the present time through those inspectors.

Mr. GERNERD. All right; but he has not any authority beyond that.

Mr. RYAN. If there is a violation of law in any one of the packing houses, I do not see why the Government inspector is not there to report it.

Mr. TINCHER. As I understand you, you are willing that the packers should be governed by the law of the land, the same as other people.

Mr. RYAN. Yes, sir.

Mr. TINCHER. You have, as you call it, an old-fashioned idea that the law should not interfere with a man's personal liberties any more than is absolutely necessary.

Mr. RYAN. That is right.

Mr. TINCHER. That is right, is it?

Mr. RYAN. Yes, sir.

Mr. TINCHER. It has been necessary, however, in the interest of good government, to have a law to interfere with the personal rights of man.

Mr. RYAN. Where he is a wrongdoer or disobeys the law; yes, sir.

Mr. TINCHER. If the evidence discloses that the packing business is carried on in such a way and to such an extent that there ought to be some law, you think the Secretary of Agriculture, as I understand it, would be the place to put the jurisdiction?

Mr. RYAN. A special law governing that?

Mr. TINCHER. It would not be special; it would be general, because it would apply to the trade and to the business. We have special laws, as you would term them. For instance, were you in the packing business before the Interstate Commerce Commission was created?

Mr. RYAN. Yes, sir.

Mr. TINCHER. Did you get your rebates from the railroads in those days?

Mr. RYAN. No, sir; we never got any rebates.

Mr. TINCHER. There was a gentleman who testified here yesterday who got rebates.

Mr. RYAN. We never asked for any rebates.

Mr. TINCHER. Was it not a proper step to take when we passed a law that prevented the granting of rebates?

Mr. RYAN. Yes, sir.

Mr. TINCHER. The railroads were owned by individuals just like you own your packing company.

Mr. RYAN. I did not understand your question. Did you say it was a proper step to grant the rebates?

Mr. TINCHER. No; to prevent them.

Mr. RYAN. To prevent the rebates; yes, sir.

Mr. TINCHER. You thoroughly approve of that move on the part of your Government?

Mr. RYAN. Yes, sir.

Mr. TINCHER. And that operated to the good of the whole people, you think?

Mr. RYAN. Yes, sir.

Mr. TINCHER. Now, if there are other practices in vogue which are considered all right by the packers but are just as detrimental to the whole people of this country as the rebating system was, do you not think they ought to be cured in some way?

Mr. RYAN. I do not think the packing industry and the railroads are analogous.

Mr. TINCHER. One of them was engaged in the [illegible] the necessaries of life and the other is engaged in [illegible] the necessaries of life. The common carriers [illegible] engaged in the transportation of the necessari[illegible] the exclusion of everyone else, and the pack[illegible] distribution of the n[illegible]saries of life to the [illegible] being able to control [illegible]arket. Do you [illegible] between them, and if [illegible]e is any favor o[illegible] is not the packer the [illegible] important of [illegible]

Mr. RYAN. One is [illegible]eat public u[illegible] thousands of stockhol[illegible]nd the othe[illegible]

Mr. TINCHER. This eating proposition is private, of course; but it is more or less of a public proposition, because we all indulge in it. The whole public has to indulge in the proposition of eating, and you are dealing with one of the necessaries of life. You consider it absolutely necessary in order for this Government to exist that the production of food products, such as meats, should continue?

Mr. RYAN. Yes, sir; that is all right.

Mr. TINCHER. Under existing conditions and for a number of years there has been a tendency, except during the stimulation for a short period during the war on account of the war, to absolutely discourage and destroy the production of meats in this country, and there can not be any future production of meat products under present existing conditions.

Mr. RYAN. I did not know that. That is new to me.

Mr. TINCHER. Do you not know that the meat producers of this country are either in bankruptcy or on the verge of bankruptcy and are producing at an absolute loss to-day?

Mr. RYAN. That is occasioned by an unfortunate combination of circumstances that nobody could prevent.

Mr. TINCHER. Do you think they will go on at that rate?

Mr. RYAN. No, sir.

Mr. TINCHER. Do you think they can go on under those conditions?

Mr. RYAN. No, sir; things will recover all right.

Mr. TINCHER. Now, to whom can they look, if they can not look to their own Government?

Mr. RYAN. The natural laws that govern trade and commerce, the law of supply and demand.

Mr. TINCHER. When the natural laws of trade and commerce are absolutely put aside, and five organizations in the United States have the ability and the organization to manipulate them, do you not think it is time then for the Government to step in.

Mr. RYAN. If they do that to the injury of the public and it is proven that they do it to the injury of the public, the Government has got a right to prevent them, because that is wrongdoing.

Mr. TINCHER. The only proof we have is the testimony of witnesses who come before this committee and a conclusive finding of one of the arms of the Government, which had a heavy appropriation for the making of the investigation, that that is true. Do you think the American Congress can afford simply to ignore that proposition?

Mr. RYAN. Has not the American Congress passed the Sherman antitrust law and is not that sufficient to reach out its arms and correct these evils without any new laws?

Mr. TINCHER. No one ever went to jail under the Sherman antitrust law.

Mr. RYAN. I do not think they will go to jail under any of the laws that you pass.

Mr. TINCHER. I hope not. I hope they will comply with the laws that Congress will pass.

Mr. RYAN. Then they ought to comply with the common law of the land.

Mr. TINCHER. You would not be in favor of this Government relying entirely upon the common law of the land in all such matters.

Mr. RYAN. I think we have ample and sufficient laws to cover everything without passing any more legislation.

Mr. TINCHER. What law do you think we have that could be successfully enforced that would prohibit the five big packers from agreeing every day what they will pay, what price they will fix, and what price the farmer or the producer shall receive for his products?

Mr. RYAN. I consider that is a combination in restraint of trade which the Sherman Act forbids. Many of the States of the Union have antitrust laws. I know that the State of Ohio has what is known as the Valentine law, that is very drastic.

Mr. TINCHER. I have observed that the packing industry, in particular, is very fond of the antitrust laws. Can you explain that?

Mr. RYAN. They are very fond of the antitrust laws?

Mr. TINCHER. Yes, sir; they always are going to the antitrust laws.

Mr. RYAN. No more than any good citizen who wants to uphold the law.

Mr. TINCHER. Every time they have been prosecuted under any of these laws they have been quite successful. They do not seem to understand the situation, because if they did there would probably not be the complaints about findings by Government agencies. Do you not think that it is possible to pass a constructive law that will not put the packers out of business and will have the power to stabilize the proposition?

Mr. RYAN. I do not think this is an opportune time for such legislation.

Mr. TINCHER. Why is it not an opportune time? Was there ever a time when the consumer was paying more in accordance with what the producer received for his products than to-day?

Mr. RYAN. As far as the wholesalers are concerned, I know that the margin of profit that we derive from our line of business, selling cattle and hogs and produce, there is not very much profit to us.

Mr. TINCHER. But was there ever a time in the history of this country, in your recollection, when the actual consumer of meat was paying more in accordance with what the producer of meat was receiving than to-day?

Mr. RYAN. Yes, sir. There were times—I can not recollect—after the Civil War and during the Civil War when things of that kind took place.

Mr. TINCHER. You say that you "can not recollect"? I want to make a statement that there never has been such a spread between the price that the consumer actually pays and the producer actually receives as to-day. Maybe there was some time, and you can put that in the record; I invite you to do so, if there was a time when that condition existed. With every line of business depressed, was there ever a more opportune time for the American Congress to try to function than to-day?

Mr. RYAN. Are you passing any law for the regulation of the retailers?

Mr. TINCHER. I contend that a constructive law should be passed by this Congress which regulates the trade or puts it under the jurisdiction or supervision of some legitimate arm of the Government and which will bring the producer and consumer together and be beneficial to both. For instance, you are not afraid of being arrested in Washington?

Mr. RYAN. It is a very disagreeable thing to be arrested.

Mr. TINCHER. But you are not afraid?

Mr. RYAN. Not very much.

Mr. TINCHER. Hedged in with policemen. If you violate any law, if you do wrong, you will be arrested, but you are not going to be arrested because you are not violating any law?

Mr. RYAN. Perhaps, we will be in a position under this Government control where we will not know if we do violate the law and then we will be arrested.

Mr. TINCHER. This Congress will not pass any law which would permit that.

Mr. RYAN. Let me say one thing in answer to your question. If we can put before you our test sheets and prove that our profits are very slight, considering the capital invested, you would not discourage our profits?

Mr. TINCHER. No; I want you to have a profit.

Mr. RYAN. You speak about the great differential between the cost of meats and the cost of live stock, now the packer can show a clean hand——

Mr. TINCHER (interposing). You spoke a while ago of the fact that the packers not only lost money, but some of their subsidiary companies had. Is it not a fact that the packers have so many different companies all the way down the line that it is very hard to find out just where it is? Is not that another reason why the Government should step in here, when this important proposition is the same as years ago, and pass some legislation?

Mr. RYAN. I do not know that the packers were going outside of their legal rights.

Mr. TINCHER. They were not going outside of their legal rights when they were taking rebates from the railroads? That was legal, but now nobody would defend making that legal to-day and no packer would advocate a law that would do away with it?

Mr. RYAN. I think it was not honest.

Mr. TINCHER. No; it was not. Ten years from now if a good law is passed you will be one of the first fellows to say that it was right.

Mr. RYAN. I do not know that I will live 10 years.

Mr. TINCHER. Oh, yes, you will.

Mr. RYAN. I have had experience enough in the last 30 or 40 years to know that legislation always interferes with business.

Mr. TINCHER. You did not even know that the big packers were getting rebates at the time you were sitting down in Cincinnati?

Mr. RYAN. I heard rumors of it but did not know the actual facts.

Mr. TINCHER. With all of your keen ability as a business man you did not come to Congress and advocate a law which would do away with the rebates?

Mr. RYAN. No, sir.

Mr. TINCHER. You are not here now asking Congress to pass a law to do away with the evils in the business?

Mr. RYAN. If the evil abuses can be proved.

Mr. TINCHER. That depends on what you would call evil abuses.

Mr. RYAN. All right.

Mr. TINCHER. Have you read the report of the Federal Trade Commission, five volumes on this subject?

Mr. RYAN. No. The Federal Trade Commission has been very voluminous and very illegal with regard to the packers; I know that.

Mr. TINCHER. But you have not read the reports?

Mr. RYAN. I have read a great many excerpts from the reports.

Mr. TINCHER. How many packing houses are there in Cincinnati?

Mr. RYAN. Ten.

Mr. TINCHER. Have you an agreement among yourselves as to how you will divide the business down there?

Mr. RYAN. No; not in the least.

Mr. TINCHER. If you did have an agreement would it be fair to the people?

Mr. RYAN. No, sir.

Mr. TINCHER. It has been disclosed by the testimony that at Denver they had an absolute agreement as to how they would divide the business?

Mr. RYAN. I will say that the State of Colorado should take hold of that.

Mr. TINCHER. You would shift it back to the State?

Mr. RYAN. Yes, sir.

Mr. TINCHER. Suppose the State could not, suppose that the packers met and made this agreement in Chicago, how could the State of Colorado reach them?

Mr. RYAN. Mr. RYAN. They could not do it in practice in Colorado.

Mr. TINCHER. They did.

Mr. RYAN. Not if the State would prevent it.

Mr. JONES. But the parties responsible living in Chicago, the State of Colorado could not reach them.

Mr. TINCHER. As a matter of fact, if we believe it is necessary to have a national law, should we pass it?

Mr. RYAN. I think we have enough laws.

Mr. TINCHER. I am asking you now if that condition exists?

Mr. RYAN. Turn it over to Colorado or anybody else.

Mr. TINCHER. Suppose a packer bids on a load of steers that is shipped to Kansas City. The man does not think that the market is satisfactory and he forwards those steers to Chicago. Suppose they have an agreement among themselves that they will wire Chicago to bid so much for his head of steers, do not pay him any more, and when he gets to Chicago they just take off a few cents a pound; suppose that condition actually existed, should there not be a law to correct it?

Mr. RYAN. I do not know whether it exists, personally; I have no knowledge.

Mr. TINCHER. Assuming that it does exist, will you not say that there should be a law?

Mr. RYAN. I do not think that it exists.

Mr. TINCHER. You will not even assume that it does exist. Have you read the report of the Federal Trade Commission?

Mr. RYAN. No; I do not want to read any more of the Federal Trade Commission literature.

Mr. TINCHER. Have you ever read what Mr. Veeder said to this committee as to the five big packers' pool?

Mr. RYAN. I know from my own experience. I buy cattle in Chicago. I bought 17 loads in St. Louis yesterday. We come into

competition in all fields with the big packers. I never saw or heard of any such practices except in the reports of the Federal Trade Commission.

Mr. PURNELL. Mr. Tincher asked you whether you would favor some legislation, provided it was generally agreed to exist by everybody?

Mr. RYAN. I do not think you need any legislation.

Mr. PURNELL. You are too smart a man not to answer a plain question.

Mr. RYAN. No; I am just here in the interest of the packers.

Mr. PURNELL. I suspected that possibly might be so.

Mr. RYAN. I am here in the interest of the packers, I repeat; the smaller packers. I am here to speak for them.

Mr. TINCHER. Do the small packers make sufficient competition for the larger packers?

Mr. RYAN. Sure; yes, sir. I want to answer your question. I do not think that you could get a regulation or a law, no matter how far reaching it be, which will stop the market fluctuations, to a certain extent, in live stock.

Mr. TINCHER. Going back to this packer proposition, suppose that Mr. Veeder, who is the attorney for Swift & Co., and one of the brightest minds in America, should stand before this committee and say that "We have a practice by which our buyers in Kansas City wire Chicago if a man forwards his produce on, to give him the Kansas City price; that it was the practice of the packer buyer in Chicago not to overbid the Kansas City bid," suppose that were actually done, would you, representing the packers, say to this committee then that they should still not have any legislation?

Mr. RYAN. That may occur in a few instances, but not at all generally; it is impossible; it could not be done.

Mr. TINCHER. Suppose they have an absolute agreement and it would occur every time?

Mr. RYAN. They would wire from Omaha to Kansas City that such a number of cattle was going there; that may have been done. If I had to buy in Kansas City I could buy those cattle right there; take the cattle out of his hands.

Mr. TINCHER. They handle 84 per cent of the product.

Mr. RYAN. How much did you say the big packers handled?

Mr. TINCHER. Eighty-four per cent.

Mr. KINCHELOE. Of all the business that enters into interstate commerce.

Mr. RYAN. It might be.

Mr. TINCHER. That is, the five big packers—not you.

Mr. RYAN. Let me get straight on this. Do you mean to say that the five big packers handle 84 per cent of the packing business in this country?

Mr. TINCHER. That is in commerce.

Mr. KINCHELOE. In interstate commerce.

Mr. TINCHER. You did not know that?

Mr. RYAN. No; I do not know it now.

Mr. TINCHER. Suppose they admitted it, would you believe it?

Mr. RYAN. I would want to see that.

Mr. TINCHER. Suppose they actually admitted it, would you believe it then?

Mr. RYAN. Yes, sir; if they pleaded guilty to things of that sort.

Mr. TINCHER. Suppose they admitted further that with the powerful volume of business that they had, they had a practice by which every forwarded-on shipment with the price bid on that shipment was wired on for the purpose of influencing the buyers of those institutions in bidding at the forwarding market?

Mr. RYAN. Did Mr. Veeder say that was the general practice?

Mr. TINCHER. I am asking you, if they admit that, would you then deem that there was any necessity for legislation?

Mr. RYAN. On any such proposition, I would say it is wrong.

Mr. TINCHER. That was one of the things that made Congress take cognizance of the proposed legislation. The witness did not deny that the packers wired on.

Mr. CREIGH. I have not the least desire to break into your time, but I think you are a little too far out of the line of the things which appear in the record.

Mr. TINCHER. Mr. Ryan is here for the purpose of representing the packers. I was just trying to ascertain to what extent he was willing to represent them.

Mr. CREIGH. He has already stated that he represented the smaller packers. You have said that Mr. Veeder said some things which I do not think he said.

Mr. TINCHER. Mr. Veeder will be on the stand, he has been on the stand many times before. If I quote him as saying anything he did not say, I will correct it when Mr. Veeder calls my attention to it.

Did you know that the five big packers had a corporation among themselves at one time, in which all of them owned stock?

Mr. RYAN. Yes, sir.

Mr. CREIGH. May I ask what the name of the corporation was?

Mr. TINCHER. I suppose the distinguished gentleman representing Cudahy knows concerning the corporation organization and it would be an entire waste of time for me to try to enlighten him.

Mr. CREIGH. I do know, and I think the record will show, that Cudahy did not have a dollar's worth of interest in it.

Mr. TINCHER. Maybe they were not classed with the five big packers. I accept the apology of the gentleman representing Cudahy & Co. in his disclaimer of any interest in this organization.

Mr. LIGHTFOOT. I think in the interest of the record, Mr. Chairman, it would be but fair to have another one eliminated from that also.

Mr. TINCHER. You want Wilson & Co. eliminated?

Mr. LIGHTFOOT. Yes, sir. You will remember that at the time when the National Packing Co. was organized—Wilson & Co. was not in existence, it was then Sulzberger—Sulzberger had no interest whatever in the National Packing Co., and were not a member of it. The record shows that Swift, Armour, and Morris organized that concern.

Mr. TINCHER. While you are on your feet, Judge Lightfoot, I think you were prosecuting the packers at that time and were not working for them and did not know the inside, but were not Sulzberger and the other gentlemen invited once in a while to the conferences of the three?

Mr. LIGHTFOOT. I was not connected with the packing company at that time and as to who was invited, I do not know.

I want to say that no court in this country ever held that the organization of a corporation like the National Packing Co. was illegal. The Supreme Court of the United States has held that the consolidation of more companies in the steel business than were represented in the three concerns that organized the National Packing Co. was legal.

Mr. TINCHER. Right there on that subject. If the Supreme Court never held that this institution was illegal it was because there was not a proper law.

Mr. LIGHTFOOT. It would not be illegal to-day.

Mr. TINCHER. There is an organization now known as the American Meat Packers' Association and I think they have their headquarters in this city.

Mr. LIGHTFOOT. The Institute of American Meat Packers.

Mr. TINCHER. The Institute of American Meat Packers?

Mr. LIGHTFOOT. Yes, sir.

Mr. TINCHER. Does Wilson & Co. belong to that organization?

Mr. LIGHTFOOT. Yes, sir.

Mr. TINCHER. And Swift & Co.?

Mr. LIGHTFOOT. All of the five larger packers and more than 200 of the smaller packers.

Mr. TINCHER. You are taking all the smaller packers in now?

Mr. LIGHTFOOT. No; the small packers took the larger packers in.

Mr. TINCHER. That organization is the legitimate successor of the other organization?

Mr. LIGHTFOOT. No. There was a meat-packers' association, composed of the smaller packers and they simply changed the name and invited the larger packers in. At any rate, the smaller packers, more than 200, control this organization just like any other number of associations.

Merely in the interest of saving time and because I do not want you to get a misconception of the facts as to the legislation you are now considering, I want to say that it has been assumed that these packing companies in the past have continually violated the law, that they had a monopoly in one form or another and are to-day in some secret or devious way continuing that monopoly. If you did not have the background of these old charges, you would not have anything, only the drawn-out old story, much of which has been abandoned long since.

I take the position that the National Packing Co. as attempted to be organized at that time, three concerns undertaking to consolidate their business, which was less than 50 per cent of the business done in this country at that time, was legal and would be legal to-day under the decision of the Supreme Court of the United States. Reference has been made by members to the Veeder pool, so called, wherein one of the Congressmen said that they got together in a room and divided out the shipments to the markets of the country, that that was evidence of illegal conspiracy and monopoly. It would appear from the mere statement of the fact that there might be some force in it, but I want to call your attention to the fact that the Supreme Court of the United States in the Grosscup injunction rendered against the packers at that time, expressly held that the packers could agree to divide the shipments to the different markets of this country for the purpose of preventing gluts, and the producers

of the country are doing that in California to-day. You have before you, I do not know whether this committee reported the bill out or not, the Capper-Volstead Act, which provides and expressly authorizes the producers of perishable products to form an organization for the control of shipments into the markets of the country for the purpose of preventing waste and gluts. The packers could, under the Grosscup injunction, as decided by the Supreme Court of the United States, do that, and the Attorney General of the United States in the consent decree expressly took cognizance of that and placed a reference to it in the decree:

"Be it provided that nothing in this decree shall modify or affect the Grosscup injunction issued in 1893," or words to that effect, about which so much has been said.

If the producers of vegetables and of fruits can combine and organize an association, and I think that is one thing that should be done because of the fact that a great deal of the high cost of the necessaries of life is due to inefficient and uneconomical distribution of those things, so, if we are shipping too much meat, more than they can consume in the locality, we can legally now, under the decision of the Supreme Court of the United States, go into a room, just as the Veeder pool did, to meet that situation, but we do not do it. Why? The moment we did some one would say that we were not doing it to prevent waste or gluts, but were doing it for the purpose of influencing the price and we would be charged with it under the Sherman Act if we did, and it would be misconstrued as to what we were meeting for.

Mr. TINCHER. May I ask you a question?

Mr. LIGHTFOOT. Yes, sir; certainly.

Mr. TINCHER. Your statement concerning the decision of the Supreme Court of the United States holding that there was nothing wrong in you having an organization to prevent gluts——

Mr. LIGHTFOOT (interposing). It is so recognized. I consider it a very good practice.

Mr. TINCHER. Did the Veeder pool hold meetings so as to prevent gluts?

Mr. LIGHTFOOT. That was exactly the purpose.

Mr. TINCHER. When they met and divided the farmers' cattle among themselves, that was for the purpose of preventing gluts?

Mr. LIGHTFOOT. You are mistaken about that. I am trying to give you the facts. The Veeder pool was merely to regulate shipments into the consuming sections—Pittsburgh, Buffalo, and all the places East—so that they would not ship more stuff in there than could be sold at a reasonable profit. You must bear in mind that fresh meat must be disposed of within two weeks from the time of slaughtering or there is deterioration which will wipe out the small profit, and if it was found that there was more stuff in the market than could be consumed at a fair price, they attempted to regulate that so as to eliminate the glut. That was seized upon as a circumstance, and to the ordinary mind not familiar with the intricate machinery and the highly specialized nature of this business would be used as a circumstance against any person as an improper practice, which would be bound to result in something which would violate the law or to regulate the price, or something of that kind.

Mr. KINCHELOE. Was not the territory not only divided, but the business of each packer apportioned?

Mr. LIGHTFOOT. They tried that, but I do not think they ever succeeded.

Mr. KINCHELOE. And there is a penalty?

Mr. LIGHTFOOT. Yes, sir; that was to enforce the rule for the purpose of preventing the glut.

Mr. KINCHELOE. What I am looking at is the consumer. Do you think that would help the price of the producer?

Mr. LIGHTFOOT. If you ask my opinion on that point, I would say that my study of the antitrust laws and the spirit of them has led me to the conclusion that the effort to compel active, open, vicious competition as the principle governing American business in a great many respects operates as a waste and loss and produces an uneconomical situation that increases the cost of many of the necessaries of life. I think it would be a good thing for Congress to modify the Sherman Act as to the producers, especially of perishable products, so they might cooperate with each other without threat of prosecution, in the distribution of their products, so as to prevent this waste. I do not know whether it would be possible to avoid the waste or not. The principle is whether or not it is proper for them to cooperate to regulate shipments in order to prevent gluts or waste. I think, however, with such a modification, under the supervision of the Government or some governmental agency, which would have the power and right to keep that matter under its observation all the time and see when it was unduly enhancing the price or creating a profit——

Mr. KINCHELOE (interposing). From my viewpoint as a Congressman, in a representative capacity, it is not the point with me, whether it was illegal for those gentlemen to do that—I grant that it was legal under the injunction that you speak of, but the point I look at, I can not see that it would be of benefit to the consumer or to the general public—it is a nefarious practice, whether legal or not.

Mr. LIGHTFOOT. You might be entirely correct. It is a question of viewpoint. I say this, if you have a thousand carcasses of beef in New York to-day, more than the population can consume, and the packers must throw them into rendering plants, or burn them, it does not benefit the consumer or the producer; it is a waste of food supply that is lost to the country, and if that could have been so controlled so that the flow of meat into New York would have been more in conformity with the demand, I think that would have been in the interest of the consumer because it would have provided a reserve supply. I think it would go far toward stabilizing the fluctuations in the stockyards that the producers complain of.

Mr. KINCHELOE. You do not mean to leave the impression that the packers have destroyed and burned any considerable number of carcasses with their facilities for cold storage?

Mr. LIGHTFOOT. You would be surprised at the loss, sir. The American people will not eat frozen meat. You chill it to the extent necessary, but if kept too long it deteriorates. I do not want to take up anymore time.

Mr. TINCHER. As you say, the backgrounds have considerable to do with this legislation, but there are other things that stand out concerning it. For instance, it was stated before the committee, and I have never heard it denied, that the members of the pool used to con-

tribute small sums of $50,000 which were used in different ways and no record was kept of it, the corporation kept no record of it.

Mr. LIGHTFOOT. You want me to answer that?

Mr. TINCHER. Yes. Would not that be some background?

Mr. LIGHTFOOT. I do not think so. I do not think you will find any practice of that kind. I think we have had joint funds that we raised at times to pay entirely legitimate expenses. For instance, a vicious bill affecting this industry is introduced in any State legislature, and it is necessary to have a hearing or there is a hearing on that bill which affects the whole industry in a matter of legislation; why should 300 packers be required to send 300 men representing each one of those packers down there to appear before that committee to lay before it the facts affecting the whole industry? We employ counsel and send them to these different hearings. There are 48 States in the Union, and they usually have bills in every legislature in the States that affect this industry in some respect.

Mr. TINCHER. Does this association here in Washington keep a complete record of their finances?

Mr. LIGHTFOOT. Absolutely.

Mr. TINCHER. Who is the treasurer of that association? Who could I get that record from for the past year? I will say to you gentlemen now, who are the officers of it, that I would like the head officer of that institution, or the man who has charge of the finances, to appear before this committee and show their receipts and disbursements, and give us a chance to find out what their disbursements were last year.

Mr. LIGHTFOOT. I have no doubt the Institute of American Meat Packers would be glad to furnish to Congress any information as to their activities in any respect whatsoever.

Mr. TINCHER. You are a member of that organization and you gentlemen will have charge of a certain amount of the time; will you get that information for me and bring it here?

Mr. LIGHTFOOT. I am not a member of the association myself, Mr. Tincher.

Mr. TINCHER. Have they a representative here in the room now—the American Institute of Meat Packers?

Mr. LIGHTFOOT. Mr. Ryan is a member of the association.

Mr. TINCHER. How much money did they raise last year? Do you know how much they used?

Mr. LIGHTFOOT. I do not know, but I assure you that whatever money they did raise and whatever money was used was used for an entirely legitimate purpose, in every respect whatsoever, and furthermore, I think they were justified.

Mr. TINCHER. Do you know how much Wilson & Co. paid into the association?

Mr. LIGHTFOOT. That is provided in the by-laws. The funds of the institute are raised by assessments of, I think, so much a head of slaughter for the animals by all the members, and in that way it is distributed among all of them.

Mr. TINCHER. In the olden days, the Trade Commission states that they used these funds for purposes like this: To employ lobbyists and paid their unaudited expenses——

Mr. LIGHTFOOT (interposing). I do not know what you mean by lobbyists.

Mr. TINCHER. Well, unaudited expenses; you know what that means.

Mr. LIGHTFOOT. Yes, sir; I know what that means.

Mr. TINCHER. Any legitimate expense can be audited.

Mr. LIGHTFOOT. I know; but who wanted them audited? That is one of the insinuations and innuendoes that are in the Federal Trade Commission report and runs all the way through it.

Mr. TINCHER. I will say this——

Mr. LIGHTFOOT (continuing). It is a very adroitly drawn report. Has any Government official ever demanded the auditing of those accounts? Is there any authority in the Government to-day vesting any one with the power to demand an auditing of private accounts of that kind? If there is, I would like to see the law.

Mr. TINCHER. Assuming there is not any law, you practiced law, like I did, before you went to work with the packers, and you never rendered an expense account to your client in your life but what you would have been willing to have had it audited or itemized?

Mr. LIGHTFOOT. Yes.

Mr. TINCHER. If you are working for a company now, or if there is a company here in Washington putting out great big chunks of money and not requiring any audited or itemized statement of how that money is spent, you and I have our own views about how it is being used.

Mr. LIGHTFOOT. Yes, Mr. Tincher; but I call your attention to this fact: No one has ever demanded any auditing of those expense accounts. The Federal Trade Commission did not ask for any explanation of those accounts. They would take a bill with whatever it showed, and you say you have one of $50,000. I do not know whether that is correct or not.

Mr. TINCHER. A single assessment of $50,000?

Mr. LIGHTFOOT. Or an assessment of $50,000. Suppose it was $50,000, the Federal Trade Commission did not ask for any explanation of that. They never asked the packers for any explanation of anything, and I hold, and I think justly and properly so, that that is responsible for nine-tenths of the misinformation and confusion that exists in this subject to-day. They took those things and they drew their own conclusions. If they had an assessment of $50,000, say, and it had no further explanatory facts, why did they not ask Mr. Veeder or the packers for an auditing and an explanation of why that was? It may have been that every cent of it—and I think it was, from my knowledge of the operation and how their business is run—was expended properly. I believe that could be shown, but instead of eliciting that information, they voluntarily used the words "unaudited expenses," in order to carry with it the very insinuation you are giving it here, and I say that is unfair.

Mr. TINCHER. I want to answer one little statement you made there simply for the benefit of the members of the committee who were not here at the former hearings.

Mr. LIGHTFOOT. Yes.

Mr. TINCHER. You say the Federal Trade Commission never asked the packers to explain anything. I will say to you, and I hold no brief for the Federal Trade Commission, that one of the members of that commission appeared before this committee at the last session of Congress, and answered every criticism that the packers had made

of their report and challenged the packers to produce certain information for this committee and asked them to do so, and that information was not produced by the packers.

Mr. LIGHTFOOT. I have no information about what that was although I attended most of these hearings.

Mr. TINCHER. I do not say it was proper that you should have done so.

Mr. LIGHTFOOT. I will say to you now that if there is any information, wherever it was in the record, that the Federal Trade Commission challenged the packers to produce, or explain, if you are interested in it, I will promise you that you will have the answer to it and the explanation of it. There is so much of that stuff it is impossible, of course, to keep up with it. These hearings have been very extensive, and a great many matters have been gone into, and it may be possible that some witness may have offered to bring before you certain evidence, but I will say to you this, and in all sincerity, because we are simply interested in this committee knowing what the facts and the truth about this whole industry are—we have nothing to conceal and we feel that if you did know the facts about a number of these things you would not be actuated to adopt or recommend legislation that goes as far as some of these bills have gone for the control and regulation of this industry, because that will be destructive of it. We are trying to show that in the interest not only of the packers themselves, which they would be justified in doing from a selfish standpoint, but in the interest of the producer and consumer of this country—you heard Mr. Campbell here the other day tell how the producers of California were affected by the destruction of packer distribution of fruit, etc., through the most highly organized distributive system in America—we are now trying to prevent you from doing something that is going to destroy this industry, not only for the benefit of California, but for the producers of live stock and poultry, butter, eggs, and cheese, all over this country, because the packers can not stand this kind of gaff all the time. They are not immortal.

Mr. TINCHER. With all this background and with all these things coming up from time to time, do you not really think it is time we have a constructive law and have some regulation of the matter that will tend to stabilize the whole proposition. You know that I am not in favor of putting the packer out of business.

Mr. LIGHTFOOT. I do not believe you are.

Mr. TINCHER. Or of destroying the business of my constituency and my entire district. You know that those people back there are not satisfied with existing conditions, and you know that there is a background for the proposition that there ought to be legislation on this subject.

Mr. LIGHTFOOT. Yes.

Mr. TINCHER. Then, why do you come here, when we talk about legislation, and say that this is all in the past and have men appear here like they did the other day and say that the thing to do with these bills is to strike out all after the enacting clause. Why do we not get down to business and have legislation that will not destroy anyone and then end the whole business.

Mr. LIGHTFOOT. I think that is a fair question and I think you are entitled to an answer to it. Of course, I merely got up to correct

you on a law point. I am not authorized to speak for this industry on this point, but I can give you what to my mind, personally, is the reason why we have not done that. In the first place, we have not had a chance to sit down with anybody on any constructive measure that would be helpful to this industry or to the producers or consumers of this country. We have been in a battle now for three years defending ourselves against what we have warned Congress and the people against from the very beginning, defending ourselves against measures that would destroy us.

Mr. VOIGT. Mr. Lightfoot, you say you have had no chance to sit down with anybody to talk about constructive legislation.

Mr. LIGHTFOOT. Yes, sir.

Mr. VOIGT. You have had plenty of opportunity to appear at all these hearings and make any suggestions you saw fit, and you have that opportunity now.

Mr. LIGHTFOOT. Well, I probably made that a little too broad, Mr. Voigt, but here is what I mean: I do not think that the committees of Congress, I do not think public opinion as the result of the impression created by the Federal Trade Commission report, has been in any state where our minds could have met on a matter of that kind, for the reason that the Federal Trade Commission report when it came out naturally inflamed public opinion of this country.

Mr. VOIGT. I do not think it has inflamed the minds of this committee, and I just want to correct the impression that goes out for your statement. You have every opportunity to appear before this committee and state what you think ought to be enacted in the shape of legislation.

Mr. LIGHTFOOT. If you will just permit me a moment, I will get to that point. First, what did the Federal Trade Commission recommend? The recommendation of the Federal Trade Commission is not the bill you are considering to-day. If it had been left for them to write the law after that report came out, what would they have written? They would have required the Railroad Administration of the United States Government to have taken over the stockyards, declared them a public monopoly, and operated them as a Government agency. They would have required——

Mr. VOIGT (interposing). That is beside the question because the Federal Trade Commission is not going to write the bill.

Mr. LIGHTFOOT. I know that, but the bill which followed that report was tantamount to that. The Sims bill then came out and the Kenyon bill. Senator Kenyon and Mr. Sims introduced a bill in which they provided for remedies tantamount to it. Although not specifically providing for ownership; in other words, the Sims bill and the original Kenyon bill provided a system for the packers under which the Government would have had the power to make rules and regulations, and could cancel your license for the slightest infraction of those rules and put you out of business overnight without any redress. We had to fight that proposition. We could not come in and effectively talk to those gentlemen about what would be reasonable and constructive legislation. We had to defend ourselves against that, and after we had made the fight they abandoned that.

Then they introduced another system of bills for a license, abandoning some of the original provisions of the Sims and Kenyon bill.

Following that, the Congress abandoned the license system, and even the American National Live Stock Association, who started all this agitation, abandoned that position and said they did not think there ought to be any laws passed for the control of this industry where autocratic or despotic powers could be exercised by the agency created.

Mr. VOIGT. Pardon me, but that is all in the past.

Mr. LIGHTFOOT. Yes; I know, but I am leading down to the point you raise.

Mr. VOIGT. Are you going to make any suggestions to this committee as to legislation?

Mr. LIGHTFOOT. So far as I am concerned, Mr. Voigt, I could make you some suggestions, if the committee feels that legislation will solve the economic problems that are at the root of this case. This is not a legislative problem. It is really an economic proposition. The fluctuations of receipts of live stock in the yards that cause the prices to fluctuate up and down, sometimes sharply, are largely responsible for the dissatisfaction among the producers of live stock who created the agitation that brought about all these hearings and the bills that have been proposed.

Now, there is not a thing in these bills, even if you enacted any one of them, I do not care whether it is the McLaughlin bill or any of the other bills, that touches that problem top, side or bottom, and until that question is settled or some means are provided whereby there can be such cooperation between the packers and the producers of live stock whereby they can regulate the flow of live stock into the markets more in accordance with the demands of the consuming public, you are going to have that condition, and you are not going to eliminate the trouble at all.

So I could make a suggestion. If you would modify, say, the Sherman Act so as to permit the cooperation between the packers and the producers, under the supervision of the Government, under any bureau of the Department of Agriculture or anyone else, to see that the prices were not unduly enhanaced, or that there was not a restraint of trade, I think you will go further toward solving this whole problem than anything that has been suggested in any bill here.

Mr. TINCHER. Mr. Lightfoot, you were here when the Secretary of Agriculture made his statement?

Mr. LIGHTFOOT. No; I regret I could not be here in time. I did not hear his statement.

Mr. VOIGT. You want some governmental agency to regulate prices?

Mr. LIGHTFOOT. I think there ought to be some supervision of the shipments. I think if the prices are unduly enhanced upon complaint being made, that can be handled, just like the provision in the Capper-Volstead bill. You have had that bill before you. The principle of that bill is not bad, and you have to come to something of that kind. But for you to set up the Sherman Act here, with all its menaces, with all its threats, to force actual, independent competition, without the slightest cooperation that would tend even to affect prices, and then at the same time expect industries that involve the great interests of production and manufacture and of distribution

to operate in a way to solve the economic problems without cooperation, is an impossibility.

Mr. GERNERD. Mr. Lightfoot, right there, I have enjoyed your argument, and what you have said has sort of convinced me that it high time for the packers to get busy and join with this committee in getting intelligent legislation through, and then you will be relieved of all these tantalizing and destructive influences that are growing up all the time.

Mr. LIGHTFOOT. Yes, sir; there is nobody who would welcome that more than the packers, if you can get something that is helpful and constructive.

Mr. GERNERD. You folks are experts in that business, why do you not help to draft us something?

Mr. LIGHTFOOT. It would be a pretty difficult proposition for me to do that.

Mr. GERNERD. Taking the Haugen bill, or any one of these bills, could we not use that as a foundation and get your views and really get together?

Mr. LIGHTFOOT. Whenever Congress, Mr. Congressman, says that it is ready to sit down and work out a constructive program of legislation—that is, of supervision—so that the public will know, so that the Congress will know, and so that the producers will know at any time whether our profits are fair and reasonable, whether our service is efficient and economical and whether our treatment of competitors and the public is fair or not, I do not think you will find that the packers will refuse to go into a consideration of that question.

Mr. TINCHER. Let me make a suggestion, inasmuch as we started this argument let us finish it. That has been the attitude of this committee ever since I have been on the committee, and I think you appreciate that. You have been attending the hearings here.

Mr. LIGHTFOOT. Yes.

Mr. TINCHER. You can not accomplish that by bringing witnesses here from afar to testify that the thing to do with this legislation is to strike out all after the enacting clause.

Mr. LIGHTFOOT. On that, Mr. Tincher, I want to say that I do not think there has ever been a fairer committee of Congress than this committee. The packers have not the slightest criticism of the manner in which this committee has conducted its hearings. You have given us as much and in some respects more freedom to bring out the facts than any other committee that we have appeared before in Congress; and while the other committees have treated us with uniform courtesy, this committee has been unusually anxious and fair toward trying to get the facts; but I will say this, we do not bring witnesses here and tell them what to say.

Mr. TINCHER. Oh, no.

Mr. LIGHTFOOT. Nobody can tell Gen. Ryan what he should tell this committee. If he thought there should not be any legislation, I do not think the whole institute of American meat packers could induce him to say there should be some. The witnesses come here to express their views, but I want to say that so long as the committee attaches importance to a great many of the little things that have been put forth here in this adroit way, that seem to carry weight, to the effect that the packers are a bunch of criminals and crooks, that they are conspiring against the public interest every day, and

when those things are emphasized, we feel that we must try to clear those things out of your mind before there can be any meeting of minds. If you are going to legislate, in other words, against us on the assumption that we are violating the law every day, and that you must have some tribunal with autocratic and arbitrary powers to prevent us from doing that, I do not think we could ever get together; but if you can see this thing as we see it, and as I know it to be, and you want to work out some supervisory, helpful, and constructive legislation, so that the public and Congress may know the truth, and will know whether our profits are what we say they are, and we have offered before committees of Congress, and I propose it to this committee now, if you are not satisfied, you may employ any reputable firm of certified public accountants you want to, we do not care who they are, and put them on our books, and we will open our books to them, and if they do not bring back to you a report that our profits or our losses are what we have stated they are, then you can pass any kind of legislation you want.

Mr. KINCHELOE. You say that as long as we adhere to some of these alleged insinuations by reason of this Federal Trade Commission report, so far as I am concerned, I am at this hearing simply to get information; that is all. It is not a Sunday school jaunt with me. What I want is information. Now, in view of the statement Mr. Tincher made, that a member of the Federal Trade Commission testified here at a former hearing and set out some items there and defied or rather challenged—probably he did not put it that strong you to bring your records, and with as good lawyers as they have here—and I know you personally although I do not know the rest of them—why can you not bring those matters here and present them to this committee who are seeking nothing but facts.

Mr. LIGHTFOOT. If you will just find that and will tell me what it is you want, I guarantee——

Mr. KINCHELOE. I guess Mr. Tincher can find it.

Mr. LIGHTFOOT (continuing). I will guarantee we will get it, and furthermore, anything that is not in there that he wants or that may occur to your minds, any fact about this business from begining to end, in whatever department, if you want it, I will promise you right now you will get it and will see to it personally that you do get it.

Mr. CLARKE. Let us get right down to that one matter. Give us a statement of what it was.

Mr. TINCHER. It was in reference to certain facts concerning the ownership of the stockyards.

Mr. LIGHTFOOT. But we do not own any interest in the stockyards.

Mr. TINCHER. No; his quarrel was with Swift & Co.

Mr. LIGHTFOOT. That is just the way with that report, and I will just point out that one thing. All the way through you have seen it charged that a combination of the Big Five owned the stockyards of this country, and that by reason of their ownership they were able to manipulate the market. The Federal Trade Commission says that the Big Five own these stockyards. They state that in the face of the fact that Wilson & Co. never owned any interest in any public stockyards market in this country, at that time or since or before:

Mr. TINCHER. I want to address myself to this proposition: We probably will never be able to convince the packers that the Federal

Trade Commission is all right and we will never be able to convince the Federal Trade Commission that the packers are all right.

Mr. LIGHTFOOT. Well, probably not.

Mr. TINCHER. You say that whenever we get down to a working basis and want to get the legitimate facts—I want to suggest to you something that we all know about and something that the committee has had to contend with. You say, of course, that the American Meat Packers' Association, or whatever it is called, does not tell a witness what to say. That is new information. That is an improvement. When I first came to Congress, the witnesses who were coming here and appearing before these committees, were coming here with typewritten statements prepared by the American Meat Packers' Association up in their offices.

Mr. LIGHTFOOT. Do you know they were prepared by the institute?

Mr. TINCHER. They were taken up there after the witnesses would come here to testify and would come here with these typewritten statements.

Mr. LIGHTFOOT. Why, you can have that done yourself.

Mr. TINCHER. We have got to get away from that kind of stuff when we legislate.

Mr. LIGHTFOOT. Now, let us be fair about this.

Mr. CLARKE. They were true statements, were they not?

Mr. TINCHER. I do not think they were entirely true; that is, those typewritten statements they used to bring down here from the institute.

Mr. LIGHTFOOT. Wait a moment, Mr. Tincher. I know you want to be fair and I want you to have the facts. You can get a typewritten statement at the Institute of American Meat Packers to-day if you go up there and take advantage of our facilities and dictate to our stenographers what you want. If you were coming here as a witness and you desired certain facts or certain information to be accurate, and witnesses ought to be accurate as to their facts, as much so as they can, otherwise their testimony is of no value to Congress, and if you wanted to find out what the exports of live stock were or of meat or what the sales of the packers were or what their profits were, or any of the detailed facts about that, you could go up there and get it, and those are the things that the different witnesses have called upon the institute to furnish. There is no one in the institute who has been in the habit of writing out a statement of what a witness should say, and handing it to him and letting him come down here and read it.

Mr. TINCHER. They read so much alike that they were liable to that construction.

Mr. LIGHTFOOT. They were discussing the same general subjects.

Mr. TINCHER. Now, let us get down to this proposition. I believe there is going to be legislation on this subject. I think that is pretty well evidenced by the attitude that the Secretary of Agriculture took this morning on the subject. Assuming now that we are going to stop all this business and have some real constructive legislation that will not put you out of business but that will be of benefit to the whole country, treat the matter from that standpoint a while and see if you can not be of assistance.

Mr. LIGHTFOOT. We will be very glad to do that.

Mr. TINCHER. I am not authorized to speak for any member of the committee except myself, but I think I am safe in saying that the attitude of Congress and the attitude of the Nation is to stop this thing and to stop it by legislation, and I am sure that nobody wants anything except constructive legislation.

Mr. LIGHTFOOT. That is all right. I am glad to hear you say that. We do not think, as I said before—at least, I do not—that the measures provided here in these bills, even the best ones of them, will entirely go to the root of this trouble. Therefore, we can not say to you that we think this is going to be helpful. We do not want to come back two years from now and have further agitation that we need to strengthen the law because it has not done so. I want to warn you now that unless there can be something brought about where there can be a closer cooperation, within the spirit and letter of the laws of this country, between the producing and the packing elements, nothing you have provided in these bills is going to eliminate that situation. However, there is a psychology that exists in the public mind to-day that we recognize. We do not say that any act you might pass is going to clear that up, but if you feel it is essential to have some kind of legislation, and if your minds have been made up that you are going to report out something in order to meet the psychology of the public mind on that situation, if you then can work out something that would be reasonable and that will not be destructive——

Mr. CLARKE (interposing). Right there, while we are on that point, my idea, Mr. Chairman, is this, that Mr. Lightfoot take the testimony of the Secretary and your bill as a basis and as something definite to start on, prepare a bill that will meet the objections and criticisms, and needs, as the Secretary brought them out to-day, and submit that to this committee. Would you be willing to do that?

Mr. LIGHTFOOT. I would say that I would be willing personally to be of any service I can to this committee in trying to solve this problem; if you feel you must report a bill, I will be very glad to point out any objections that occur to my mind, if that is the desire of the committee. I want to say, however, that if such a bill would clear away this unrest in the country so as to permit the packers to reach a point where they can meet the producers of this country and through cooperation work out something, it might be helpful in this matter.

Mr. PURNELL. Do you think they could meet through an agency created in the Department of Agriculture with the Secretary at the head of it?

Mr. LIGHTFOOT. I made an argument at your last hearing in the last Congress, at the request of the committee, in which I took the position that if you were going to have regulation of any kind, it ought to be in the Department of Agriculture, for the reason that it now exercises general supervision over a great many of the activities of the packing industry, and the legislation would coordinate in that department all of the authority and jurisdiction that should be necessary to properly supervise it.

Mr. PURNELL. I believe the Secretary of Agriculture would be reasonable and that a board or commission created within that department would afford a meeting ground for these two forces that ought to get together.

Mr. LIGHTFOOT. I say to you that in any bill you pass—if you ask my opinion personally, some of them might differ from me, I think some of the packers would—but I say from my study of the situation that would be the logical thing to do. If you have a bill, give him the jurisdiction, because he now touches the industry in so many parts, starting on the farms, the inspection work for the detection of tuberculosis, and follows the animals on to the stockyards. Let him follow all the way down.

Mr. TEN EYCK. Is it your opinion that the Capper-Volstead Act is a step in the right direction for the stabilization of the price of beef products?

Mr. LIGHTFOOT. Yes, sir; I would say that it was a step in the right direction.

Mr. TEN EYCK. Under cooperation?

Mr. LIGHTFOOT. Yes, sir; under the bill to authorize associations to be organized among the producers. They could regulate, under the supervision of the Secretary of Agriculture, the flow of live animals to the market. As it stands at present, there might be some question under the Sherman Act if they undertook to limit the supplies as to whether or not they would not violate the Sherman Act, and I think Representative Gould, of this Congress, has already introduced a resolution to investigate the extent to which the farmer organizations are now cooperating so as to restrict the supply. In that respect, it might be held to violate the law. If we are to stand in constant dread of the law, it would not be of benefit to the country if the packers were to cooperate in order to prevent gluts in the market and great waste, but when we have 60,000 head of cattle to-day and to-morrow we have 10,000, we have got to keep a force of labor employed, and they are guaranteed so many hours a week at prices fixed during the war—they have since been modified, but the agreement has been renewed—you may have seen in the press that we had a conference with the Secretary of Labor the other day—that is very expensive. Suppose they could regulate the flow of animals, have it uniform, for our demand; we tried to do that in one instance in Kansas——

Mr. TEN EYCK. In other words, you believe in cooperation in storage on the hoof?

Mr. LIGHTFOOT. Absolutely. The minute you kill meat you have to get rid of it in a certain time. The packers would welcome a situation where these things could be cleared up so that the public mind could look at the packing industry as a great servant of the people, serving them efficiently and economically, providing wholesome, fresh food in every part of this country three times a day at a cost less than any other industrial concern in the country.

Mr. KINCHELOE. Do you think that reasonable legislation or supervision of your business, such as proposed in the pending bill, would do more toward restoring confidence in the public mind in your business than any other thing?

Mr. LIGHTFOOT. I think it would go a long way, provided you had a constructive law—supervision as distinguished from regulation. I think there is a distinct line of difference. When you come to regulations and you set up the authority in Washington, it is going to interfere with the initiative and with the judgment of the heads of these great organizations that require the highest kind of specialized talent.

The CHAIRMAN. Mr. Lightfoot, what do you think of the suggestion made by Mr. Clarke? There would be no embarrassment in conferring with the Secretary of Agriculture?

Mr. LIGHTFOOT. If this committee requested me——

The CHAIRMAN (interposing). I do not think that the committee would take the responsibility of ordering that to be done.

Mr. LIGHTFOOT. Not ordering it.

The CHAIRMAN. There would not be any impropriety in the interested parties conferring on the matter?

Mr. LIGHTFOOT. No. If the gentlemen will suggest it to me and you desire me to do so, I will be glad to cooperate in any way.

Mr. CLARKE. I suggested that they confer and report back to the committee. I think that would give us a definite basis to go on. At present we are not leading to any definite result.

Mr. TEN EYCK. Take their suggestions as a foundation and go over it?

Mr. CLARKE. Yes, sir.

Mr. THOMPSON. The crux of your argument is cooperation?

Mr. LIGHTFOOT. To this extent. I think that the real difficulty, which is an economic one, in this situation, could be more nearly solved if there could be cooperation between the producers of live stock and the packers and another element, the distributors, should be in there. If there was cooperation all along the line——

Mr. THOMPSON (interposing). That would be your main suggestion in a conference with the Secretary, would it?

Mr. LIGHTFOOT. I would be very glad to go over the whole subject with him from beginning to end, get his views as well as to offer our own, hoping that out of the conference there would come some suggestion that would be acceptable to the committee.

Mr. PURNELL. Do you think that there is any lost motion between the producer and consumer that could be eliminated by legislation? You must recognize one thing, the public mind today is inflamed and depressed because of the actual conditions existing between the producer and consumer—the price paid and received—I am just wondering whether, in your judgement, any report that this committee might make and any legislation which Congress might pass would tend to elimate any lost motion or expense in the middle; that is, adding to the price paid by the consumer and subtracting from the price paid to the producer?

Mr. LIGHTFOOT. I think so, but very little of it would come from legislation. The only thing is to make it possible for that measure of cooperation between these different branches of this industry so as to eliminate this waste and these fluctuations of receipts. If I may be permitted—I do not want to take too much of your time, but I think it is in the interest of clearing this thing up. The larger packing companies are condemned, at least, their position in the market is not understood. In place of being condemned here for any percentage they might buy of live stock on the markets, why, if it were not for the five big packers, the markets for the live stock industry would be destroyed in a very short time for the reason that they must buy everything that comes on the hoof in the market that is offered for sale every day. They must clean those markets up. Otherwise the next day or two days afterwards you would not have any place to receive a head of live stock in any of these stockyards—our duty is to buy it.

Mr. VOIGT. That is just the answer to the contention that I have made a number of times, that the small packer can not absorb the offerings of live stock. In other words, your people consume such an enormous percentage that you can control the business. You say that you want a law that provides for supervision, but not regulation. That does not mean anything, that is just another way of saying it; you would like to have a law giving some fellow the right to look at you but who can not tell you anything?

Mr. LIGHTFOOT. No; you misunderstood what I meant. I say this. If the packers are in a combination in restraint of trade or if they are a monopoly in violation of the Sherman Act, and the agency which you now have in the Federal Trade Commission will apply itself to this industry, it will find whether that be true and you have the machinery now to prosecute. Any regulations you make will not cure that. If your new agency should find that the packers were a monopoly and were violating the law, you would not want them simply to cease and desist. If you got irrefutable proof of the fact you would want to lay those facts before the Attorney General and prosecute them.

Mr. VOIGT. I will tell you what I think. The Attorney General stated before this committee last year that not a single business man had been put in jail under the antitrust law. We all know that there have been violations of the law. I think a properly framed bill can cause some supervisory agency to make certain orders that will put you people in a position where you can not violate the law.

Mr. LIGHTFOOT. I do not think so.

Mr. VOIGT. That is to assume that any order that would be made by a governmental agency would be violated?

Mr. LIGHTFOOT. No, sir. I doubt whether it is really profitable for us to go into the discussion of that phase, but is it not a fact that any law you write, if men willfully wish to violate it, they can do it? The evil is not, as I take it, from your position, whether you can by legislation prevent men from doing it, but to ascertain the fact as to whether or not they are doing it. Then you have the remedies already in force, more than the committee has suggested in any of these bills. Cease and desist, would be the extent of the powers under any of these bills.

Mr. VOIGT. I will be very frank with you. I am satisfied from the evidence that has been produced before this committee and from the Federal Trade Commission's report that you men have violated the law and that you have been and, I think, are now in combination. The Attorney General stated to this committee last year, after investigating the facts, that he was satisfied that you had violated the law and were subject to prosecution.

Mr. LIGHTFOOT. Yes, sir.

Mr. VOIGT. I should like to see some bill written that will prevent a continued violation of the spirit of that law. Now, you, and I think some others, have stated that we have a law so that if you people are guilty of the violation of the law that you can be prosecuted?

Mr. LIGHTFOOT. Yes, sir.

Mr. VOIGT. I want to be frank in this statement. While I do believe that you are violating the law, I do not think that any prosecuting attorney can produce enough evidence to prove a violation of the law in a criminal proceeding. That is my position.

Mr. LIGHTFOOT. I will answer that this way. Of course, as to your opinion, you are entitled to its conclusion, which has suggested itself to your mind from the facts as you think they exist or as you have read this evidence. I would not deny your right to do so. Being more intimately connected with the industry, I say to you, outside of the fact of my position as a representative of the industry, that there is no truth in the statement that there is now a combination in restraint of trade. If there was, I would not represent them.

Mr. VOIGT. If you men did not voilate the law, you never would have gone into court and consented to the decree?

Mr. LIGHTFOOT. That is what I am going to answer just for your information and because it is something that I think should be cleared up. I was in these conferences from the beginning. They lasted several months. I said to the Attorney General of the United States, if there was to be a decree entered in this case enjoining the packers from continuing in the grocery business or their ownership in the stockyards or using their distributing system for distributing these so-called unrelated lines which was predicated upon any admission that we had violated any law or were guilty of any offense, that the negotiations would cease then and there, and that was maintained all the way through this entire proceeding. Furthermore, in the stipulation that was made before the decree was entered there is the express language which I will ask you to read, if you have not done it:

> The entry of this decree and the consent to its provisions shall not be construed as an adjudication of the truth of any fact alleged in the complaint to be filed by the Attorney General in the case or as an admission of guilt on any charge he might make.

Mr. VOIGT. You are really in the position of the man who comes into court and says, "I am not guilty, I have not done anything, but I have no objection to the court holding me guilty." Is not that the situation, you consented to be found guilty?

Mr. LIGHTFOOT. I believe that nine-tenths of the people would believe the same thing by reason of that fact. That is the unfortunate part of it. Because the packers, in good faith, have tried to meet public opinion created by the charges of the Federal Trade Commission and these bills before Congress, that we were undertaking to monopolize the breakfast table of the American people. The packers had no such intention. They desired no such advantage and they could not get it if they had desired it. In order to meet public sentiment on that score, we thought by making it impossible for us to continue in this business, to give it up, would satisfy the public mind. I think it is true, that nine-tenths of the people in this country have the impression that exists in your mind in relation to this industry; that is, "if you had not been guilty, you would not have done it." I say to you, in all sincerity, that no such motive ever actuated us in doing it, and if it had been required that we admit guilt we would not have consented to the decree.

Furthermore, you can not blame the Attorney General. I am not criticizing his position. Perhaps, the Attorney General believed

that he had evidence enough, I do not know what was in his mind on that, whether he did believe it or not. From our standpoint there were no facts, and other Attorneys General passed on those facts, too, and no indictment was ever brought. I do not think that there is sufficient proof in this record anywhere, that would be acceptable to any court, to show that the packers had any monopoly as charged.

I want to call your attention to this one thing in closing. Senator Smoot made a speech in the Senate on the 24th day of January in which he analyzed the charges of the Federal Trade Commission. There are only four fundamental circumstances in their whole report offered in support of their charges. There is no affirmative proof that there was any monopoly. The circumstances presented by the commission were that we divided purchases of cattle on a percentage basis, that we had an agreement on foreign business, that we had agreements to fix the price of unrelated lines, and that we contributed to joint funds. They are completely analyzed in the speech of Senator Smoot on the 24th of January. If you gentlemen will read it you will find how much legal evidence there is in that Federal Trade Commission's report to support the charge that the packers were guilty of monopoly or in restraint of trade.

Mr. VOIGT. Any one who reads that speech ought to read in connection with it the so-called "black book" which you will find at page 213 of Part II of the Federal Trade Commission report.

Mr. GERNERD. On what page did you say, Mr. Voigt?

Mr. VOIGT. On page 213 of Part II of the Federal Trade Commission's report. That is the record kept by one of the packers.

Mr. LIGHTFOOT. I would be glad to have them read the whole record. If they find time I would be glad to have them read the whole Federal Trade Commission report and read this speech in connection with it. I am perfectly willing to take their judgment after that.

I want to ask the pardon of this committee for this intrusion. I merely wanted to answer Mr. Tincher on the proposition of the so-called National Packing Co., that it was not a corporation in restraint of trade.

I have stated that I will take up the matter and see what we can do in relation to making some suggestions to the committee.

The CHAIRMAN. We might get together on one proposition, and if we can agree on that, the question then would be what the legislation should be.

Mr. LIGHTFOOT. Yes, sir.

The CHAIRMAN. It has been thought by the members of the committee that we should not hold as extensive hearings as we did in the last Congress and other Congresses, and if it is agreeable to the committee we might adopt a resolution of this kind:

Moved that the testimony given in the following congressional hearings be considered a part of the present hearings to the same intent and effect as though introduced in these hearings:

Before the Subcommittee on Agriculture and Forestry, United States Senate, Sixty-fifth Congress, second session, from September 17 to 28, 1918, on Senate resolution 221.

Before the Committee on Interstate and Foreign Commerce, House of Representatives, Sixty-fifth Congress, third session, commencing December 19, 1918, and closing in February, 1919, on H. R. 13324.

Before the Committee on Agriculture and Forestry, United States Senate, Sixty-fifth Congress, third session, on S. 5305, commencing January 13, 1919, and ending February 13, 1919.

Before Subcommittee of the Committee on the District of Columbia, United States Senate, Sixty-sixth Congress, July, August, and September, 1919, on Senate resolution 150, "High Cost of Living in the District of Columbia."

Before Committee on Agriculture and Forestry, United States Senate, Sixty-sixth Congress, first session, on S. 2199 and S. 2202, commencing August 18 and ending September 13, 1919; also held again in January, 1920.

Joint hearings before the Committees on Agriculture, Congress of the United States, Sixty-sixth Congress, first session, on S. 2199 and S. 2202, held on September 25, 1919.

Before Committee on Agriculture, House of Representatives, Sixty-sixth Congress, second session, on meat-packer legislation, commencing February 24, 1920, and ending in April, 1920.

Before Committee on Agriculture, House of Representatives, Sixty-sixth Congress, second session, on meat-packer legislation, held January 3, 1921.

Mr. KINCHELOE. Including the last hearings?

The CHAIRMAN. Yes, sir.

Without objection it will be so ordered.

(There was no objection.)

Mr. MCLAUGHLIN of Nebraska. With reference to the suggestion of Mr. Clarke, Gen. Lightfoot or anybody else, I take it, any other person here, or any person who is not here, who wants to confer with the Secretary and make suggestions as to amendments to any of the present bills will have a right to do so, and will submit the new bill for the consideration of this committee. I am in thorough accord with that and I assume every other member of the committee understands it, but I want every man in this room to understand, and I want the public to understand, that before this committee reports out a bill the committee considers it carefully for amendment, it considers it very, very carefully, and that we are not inviting any packers' attorney or anybody else to write a bill for this committee.

Mr. CLARKE. That was not the idea at all.

Mr. THOMPSON. If there are any suggestions along that line the suggestions should be made to this committee, which is going to bring out the bill, and not to the Secretary of Agriculture.

The CHAIRMAN. As I understand the suggestion, it was that they meet and confer, and possibly come to an agreement as to some provisions of the bill.

Mr. CLARKE. That is it, and to make their recommendations to this committee and let the members of the committee thrash them out themselves.

The CHAIRMAN. In other words, the committee would have the benefit of their suggestions. We will, of course, write our own bill.

Mr. MCLAUGHLIN of Nebraska. I think the committee would be pleased to have the suggestions.

Mr. KINCHELOE. I think any suggestions which they might have to offer as to the bill should be submitted to this committee. So far as I am concerned individually, I will reserve my own opinion as to the question of the decree.

Mr. THOMPSON. I do not want any outside influence writing any bill for this committee, either officially or otherwise.

Mr. MCLAUGHLIN of Nebraska. If I may ask Gen. Ryan a question, Mr. Chairman?

Mr. RYAN. I though I had been forgotten.

The CHAIRMAN. Certainly.

Mr. MCLAUGHLIN of Nebraska. With reference to the suggestion of Congressman Tincher, will you please have the Institute of American

Packers, either through one of their officers or representatives or by printed statement, furnish to this committee a statement of their receipts and disbursements for a period of time, say, one year or less? I wish, if it will not be asking too much, that you, as a member of the institute, one of the members, endeavor to get that for us?

Mr. RYAN. Yes, sir.

Mr. MCLAUGHLIN of Nebraska. I should like to have it in plain language that we can understand.

Mr. RYAN. Yes, sir.

Mr. MCLAUGHLIN of Nebraska. I just want to call your attention in this connection to the Veeder pool that was talked of. This is just one, there may be a good many instances of this kind in the record, but I want to call your attention to this letter from Mr. Veeder to Mr. Traynor, the assistant to Louis F. Swift, under date of August 23, 1916, in which Mr. Veeder says:

Mr. W. B. TRAYNOR,
Care Swift & Co., Chicago.

DEAR SIR: You asked me the other day for certain percentages which are generally known as "usual percentages." On July 30, 1913, L F S, A M, and T E W agreed with C and S & S upon the following percentages to cover general legislative and litigation matters: S, so much; A, so much; M, so much; C, so much; and S & S, so much.

We find that the Federal Trade Commission has concluded that that was a code meaning certain figures. We do not want a code. We want the names of the contributors and we want to know what they spend their money for.

Mr. RYAN. Yes, sir.

Mr. MCLAUGHLIN of Nebraska. Thank you.

The CHAIRMAN. Have you concluded your statement, Mr. Ryan?

Mr. RYAN. Yes, sir.

The CHAIRMAN. We are much obliged to you, Mr. Ryan.

Mr. RYAN. I am very happy to have come here to meet you. It is a long journey, but nevertheless I have been well paid, because I feel that the disposition of this committee is to be fair and friendly to the packers of the country. We will cooperate with you all we can. The proposition to ask for suggestions from the packers when you are formulating the bill is a splendid one, and the packers will give you the very best we have. If there is any legislation necessary—I hope to the good Lord you will not have it——

The CHAIRMAN (interposing). I think it is absolutely fair that anybody feel free to offer suggestions. I do not think any committee would want to go on record that they had denied anybody the right to submit suggestions or any information.

Mr. KINCHELOE. I wish we could have some suggestions from the consumers and producers.

The CHAIRMAN. They have been notified and they will have an opportunity to appear, and others are to appear. We want the suggestions as well as the testimony of everybody who has any interest in this matter.

How many witnesses have you for this afternoon?

Mr. CREIGH. Our program is a little out of gear, but we have at least five others that we should like to go on.

The CHAIRMAN. How would it do if we took a recess until 2 'clock?

Mr. CREIGH. That would be satisfactory.

The CHAIRMAN. Then, without objection, the committee will take a recess until 2 o'clock this afternoon.

(Thereupon, the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 2.20 o'clock p. m., pursuant to recess, Hon. Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. The committee will come to order. Who is the next witness?

Mr. CREIGH. Mr. Brown, the chairman of the National Live Stock Exchange.

The CHAIRMAN. We will be pleased to hear from you, Mr. Brown.

Mr. CREIGH. Might I say, Mr. Chairman, that we have probably six witnesses who will wish to get on this afternoon, and each of them will probably make as compact a statement as he can, but I don't want to sidetrack any questions or any discussion; that really was helpful this morning, I thought, in bringing us closer together; but if you will help us a little bit this way we will try to help you.

The CHAIRMAN. It is in your hands. The time is yours. Now, we will hear you, Mr. Brown.

STATEMENT OF EVERETT C. BROWN, CHAIRMAN OF THE NATIONAL LIVE STOCK EXCHANGE, UNION STOCKYARDS, CHICAGO, ILL.

The CHAIRMAN. Will you give your name?

Mr. BROWN. Everett C. Brown. I am chairman of the National Live Stock Exchange, Chicago.

The CHAIRMAN. Proceed with your statement, Mr. Brown.

Mr. BROWN. Mr. Chairman and gentlemen, this morning in looking over the committee—and I have been coming before this committee for four or five years on different legislation—it seemed to me that I saw quite a number of new faces. It has occurred to me that some, and perhaps most of the committee, are not thoroughly conversant with the particular functions of the commission man and the live-stock exchange. I made quite a voluminous statement on the exchange question in the Anderson bill. I don't propose to read that now, because it is too long, but there is a definition of commission men here, and the construction of exchanges that I think should be read into this record, and if you will permit me to do so, I will start with that.

The CHAIRMAN. Do you mean the testimony given on the Anderson bill?

Mr. BROWN. This testimony was submitted in the Anderson bill. But I wanted to call the particular attention of the committee to the functions of live-stock commission men and exchanges, which are the organizations of commission men.

First of all, to describe the live-stock commission men:

The live-stock commission men selling live stock at the open markets throughout the country act as the personal agent or representative of the live-stock producers. They perhaps perform more actual labor in connection with the handling of live stock shipments than is the case with any other commodity marketed. As statistics show, the small sums paid them for commission—

which, I may interpolate there, have not averaged one-half of 1 per cent for the last five years—

represents the lowest commission on any commodity sold through brokers or commission men on which a brokerage fee or commission charge is fixed. The commission man must furnish his patrons with personal market-advice letters and subscribe, at his expense, to market papers furnished gratis to such patrons. The incoming shipments must be traced to insure prompt delivery, and after arrival the shipments are unloaded, sorted, yarded, fed, and watered before being offered for sale, so that they will present the best possible appearance. After negotiating with the various competitive buyers, the stock is weighed up, amount of sale collected, and remitted to the customer, and where the animals are to be reshipped cars must be ordered for loading and the stock delivered to the loading pens from the sales division, and when cars are placed the commission man assists in the loading service.

Every sale made by a commission man carries with it his unqualified guaranty of title. Thousands of dollars are lost by these concerns each year through the sale of mortgaged stock, but, regardless of this fact, the commission man protects the buyer, who need have no fear of the title.

As to the functions of the exchange—and there are 27 live-stock exchanges in the United States, and I have been honored by being selected as the president of the national body—I would like to read what the work of the exchanges has meant since their existence, which began about 37 years ago.

This is from my statement before the Committee on Agriculture in the Anderson bill.

Among the work undertaken by the live-stock exchanges may be mentioned the following:

1. Adoption and enforcement of rigid rules and severe penalties, thus forcing out unfair and unscrupulous dealers.

2. Adoption and enforcement of rules prohibiting cruelty to or beating of animals marketed, thus avoiding losses by reason of bruised or crippled animals.

3. Adoption of trading rules governing marketing transactions, thus assuring a clear title to live stock sold, making the commission man personally responsible for sales made.

4. Adoption of rules which permit every owner to sell his own stock when desired, or to go upon the market for the purpose of buying such stock as he needs, thus preventing any possible discrimination or monopoly.

5. Adoption and enforement of rules preventing and forbidding favoritism to shippers, so that the small shipper is accorded the same privileges and enjoys the same benefits as the larger ones.

6. Adoption and enforcement of rules forbidding the sale of stock from one member to another of the same firm, for the purpose of depriving market patrons of the full selling price.

7. Maintenance of a court of appeals, to which any patron may apply without expense to himself or without requiring attorneys, the committee affording justice to all concerned after a full and complete hearing.

8. Adoption of rules establishing and supervising the dockage on hogs, which rules have effected a saving of millions of dollars for shippers by doing away with the former ruinous and unfair methods, and thus forbidding the buyer to dock as he deems best.

9. By providing a central office for handling general matters duplication of expenses is avoided, and economies are effected to the benefit of both patrons and commission concerns.

10. The local and national exchanges have instituted or intervened in every case before the Interstate Commerce Commission in recent years in assisting the live-stock shippers to obtain fair and proper rate adjustments, and have thus succeeded in saving thousands of dollars for such shippers without additional profit to themselves.

11. Appointment of special committees who constantly strive for improved train service to and from all markets, and this committee may be credited with having participated in every important improvement in train service to the open markets.

12. By subjecting all transactions to the scrutiny of appointed committees questionable methods are reduced to a minimum and transgressors are brought to justice in a manner calculated to discourage repetition.

13. By keeping in touch with proposed legislative matters, state and national, the exchange endeavors to encourage legislation of a remedial character for the purpose of advancing, promoting, and protecting the live stock industry.

14. By establishment of rules controlling soliciting they have done away with the former practice of inexperienced solicitors misrepresenting market conditions, the rules requiring that solicitors shall spend sufficient time in the markets to familiarize themselves with acutal conditions.

15. The establishment and enforcement of uniform commission charges on the lowest possible basis prevents discrimination between large and small shippers and eliminates temptation, present under the old practice, whereby little or no commission would be charged, but where returns were not always made in full.

16. The establishment of claims bureaus, where the shipper may have any legitimate claim against the railroads handled at a minimum of cost. Such bureaus are designed to prevent the filing of unfair claims.

17. By investigating the character of members prior to their admittance to the exchange, the personal standing is of the highest, as only men of good, solid business integrity and unquestionable financial responsibility are admitted, and by the same token all crooked or dishonest applicants are denied admission.

18. By the concerted action of the commission men, packers were prevented from buying animals subject to post-mortem examination, this same action preventing a destruction of the great cash market and the substitution of a credit market in lieu thereof.

19. Having forbidden or prevented unfair post-mortem rule, the commission men are now spending thousands of dollars in a national campaign for the eradication of diseases.

20. The enforcement of the marketing rules places the marketing of live stock upon a higher place than that of any other commodity. Every sale is an actual sale and every transaction is a sale for cash, the proceeds returning to the shipper on the date of the sale. At the larger markets cash sales of from one to two million dollars are made daily.

21. The gradual evolution of marketing conditions under the guidance and supervision of live-stock exchanges has resulted in such marked and beneficial changes in conditions that the market patrons rarely deem it necessary to accompany their shipments to market except where other business is to be transacted after their arrival there.

22. The National Live Stock Exchange in conjunction with local exchanges and other organizations are now engaged in a campaign to lessen the tremendous shipping losses now prevalent. It is estimated that the result of this campaign will be millions of dollars saved to the producers and millions of pounds of foodstuff saved for a hungry world.

23. The commission men originated and have perpetuated the present great system of cash marketing of live stock. No other produce of the farm is disposed of in this manner; and no marketing system in the world compares with our American live-stock marketing scheme.

Now, I wish to make a brief statement, gentlemen, and after that I will be glad to answer any questions that you care to ask.

It seems to me, gentlemen, that the time has come for plain speaking, and I purpose bringing to your attention some facts which merit your most careful thought and consideration. The people of this country have been hoodwinked long enough, and it is high time they were informed on certain phases of this tremendous problem.

Just what do we really want and what do we hope to accomplish by the enactment of any or all of these bills into law? Has the time come when we can by legislative action set aside the laws of supply and demand and provide a solution for the problems of both producers and consumers?

I do not think there is a man on the Agricultural Committee of either the Senate or the House that believes for an instant that control by a live-stock commission, by a Federal trade commission, by the Interstate Commerce Commission, or by the Department of Agriculture would be anything more or less than a joke. They do not make men capable of ever getting to first base in even understanding, to say nothing of controlling, the various branches of the live-stock industry. Even the urgencies of the war and its difficult activities did not bring out any superman capable of occupying a

place and serving the Government on any commission such as is proposed.

Congress passed the Lever law; the live-stock industry worked under it for nearly three years. There never has been a greater joke legislation that was taken more seriously than the Lever bill. It did not control anything, and the Bureau of Markets that had supervision of the live-stock industry can scarcely show any real, constructive benefits to any branch of the trade after having been given fully as complete control as proposed in these bills. The Bureau of Markets never understood the law themselves, the live-stock industry never understood it, and finally the Supreme Court of the United States declared it unconstitutional and Congress annulled the act, and I can assure you gentlemen that this is what is going to happen if this kind of legislation is going to be passed by Congress. It is humanly impossible to make it operative.

I have personally talked with some of the largest live-stock feeders, shippers, and producers within the last two weeks and have heard the bitterest comments on this proposed legislation. Nearly all of the shippers now are attributing as one reason for prevailing low prices the constant agitation that has been going on for three or four years in this form of legislation, and an expression that is common all over the West is that the walking delegates and agitators and high-salaried farm leaders are doing more by their agitation to prevent the consumption of meat foods alone than all the good they could do in a hundred years by their "tearing down" tactics, and there is a feeling prevalent among producers all over the country that the bitter attacks made by the Federal Trade Commission and by self-constituted associations claiming to represent certain branches of the producers, have practically caused a cataclysm in prices of all kinds of live stock and its products.

You gentlemen all know that the wool growers have lost hundreds of millions of dollars and that their wool is almost unsalable. You also know that the attacks by the Federal Trade Commission on the packers have been believed by the foreign buyers to such an extent that American meats are discriminated against, and this directly reflects great losses upon the producers of America.

The live-stock commission interests in the 27 live-stock markets of the country, through cattle and sheep loans to formerly good customers, have lost millions of dollars, and it has been said on good authority that the packers have lost more money during the last 18 months than they made during the entire war, as they were caught with high-priced meat that they could not sell in foreign markets largely because of the fact that they were discredited by a bureau of the United States Government.

I read nothing in the proposed legislation in any bill that in any way tries to control what everybody in this room knows to be the greatest profiteers—not only during the war but during the present time—that this country has ever known. Why does not Congress try to control these people who by their retail butchers' associations in the large distributing cities of America have as close or closer organization than any of the big trade-union organizations in America?

Governmental figures will show you gentlemen conclusively that wholesale meat prices have followed the downward trend of live-

stock prices so that to-day the retailer can and does buy his meats at wholesale at practically prewar prices. Have any of you gentlemen been able to buy your meats at retail at prices anywhere near the prewar basis?

Obviously not, and one would think from the prices asked by some stores that not only did a meat famine exist, but that the war was on in full swing, with all sources of supply shut off, and only a few carcasses available for distribution.

There is no more justification for the prices asked by many retailers of meat than there would be for an autocratic form of government in America. Not only do they follow the rule of charging all the traffic will bear, but they have thrown reason to the winds and are slowly driving the greatest meat eaters in the world to a diet of predigested foods heretofore reserved for domestic animals and invalids.

Domestic consumption of meat is rapdily declining and it is small wonder that this is the case. Give the live-stock industry its per capita consumption of a decade ago applied to our present population, and the increase in meat consumption would amount to over a billion pounds. This tremendous decrease in the consumption of meats reacts directly upon the farmer and live stock producer, and as the bulk of the grain raised in the United States is fed to live stock the depression caused among the farmers at the present time by this stagnation of the meat industry is in my opinion the chief cause for the depression among the farmers to-day.

One of the greatest difficulties confronting the producer to-day is his inability to secure from any source whatsoever sufficient funds with which to carry on his business of buying cattle and hogs and making meat for the consumers of this country. Your honorable committee is doubtless aware that a very great proportion of the live stock raising to-day is carried on with borrowed capital. As I have told previous committees, the commission men of the United States indorse paper annually to the extent of fully $50,000,000 to help the producers make this meat food. The live-stock exchanges of the country are doing their utmost at this time to induce the Federal Reserve Board to loan from its profits the sum of $50,000,000 to $100,000,000 to help the producer borrow sufficient money to carry on his live stock feeding. I do not recommend through the proper channels, either by enacted legislation or recommendation, that the farmer and the live stock producer who has suffered such terrible losses in the recent readjustment of prices, that he be financed on the conservative lines suggested and I honestly fear that if something of this nature is not done to finance the producer there will be a great many farmers forced out of business in the United States and the reaction will be a scarcity of meat and prohibitive prices.

In analyzing these bills we commission men, of the live-stock exchanges, find in one bill that we are to be placed under a live-stock commisison; in another bill, I believe, under a Federal trade commission; in another bill, the Interstate Commerce Commission; and in still another, the Department of Agriculture. While there is not a commission man in the United States who wants to go under any bill, we believe that the safest and sanest commission that has been proposed for us to go under is the Interstate Commerce Commission, and I am instructed by our exchanges to indicate to your honorable

body that if in your wisdom any legislation finally passes the Congress that the live-stock interests believe and feel that their problems would be better understood by the Interstate Commerce Commission than any other commission control.

It is gradually dawning upon the producers that their real troubles rest upon those dispensing the meat products to the consumers and not upon acts or omissions of those handling their live stock. Give us an outlet whereby meat will reach the consumers on a reasonable margin and supply and demand will do the rest.

I recently made a survey of wholesale and retail meat prices in my home town—Chicago—and the conditions disclosed there convinced me that retail prices are without rhyme or reason. Only within the past week I checked up on prices in two shops located directly across the street from each other and found startling comparisons.

Meat obtained from the same packer was being sold in one shop at from 10 to 18 cents per pound more than the same brand and cuts were bringing across the street. In another shop I found a popular brand of sausage retailing at the same price it was bringing during the period of high prices of last fall and winter, although I happen to know that the maker of the sausage has reduced his price to less than the prewar basis.

I was offered lard of a well-known brand at exactly two and one-half times the price that brand was wholesaling for on that day. Bacon costing wholesale 30 to 35 cents was offered at 55 to 65 cents per pound, the buyer paying for full weight and no trimming deducted. Hams which were wholesaling at 28½ to 32 cents were being sold at prices of 50 to 65 cents for center slices. This, gentlemen, is where you should apply the remedy.

If, as a representative of the Consumers' League tells us, our children are going hungry, then let us open the markets for them. No consumer in America hungers for meat one-half so much as our producers and packers hunger for the chance to supply them.

A word now as to the mysterious forces back of this demand for legislation. I have personally attended hearings for the last three years on the different bills that have been presented for controlling this industry. It became very evident two years ago that some great organized force was behind this attack on the live-stock industry and every United States Senator and Congressman who has followed this legislation, I think, is convinced by this time this wonderfully organized force of wholesale grocers, who are the proponents of this legislation, have done more to tear down the prices of the farmers' live-stock products than anything else that is helping to force prices downward. I wonder if you gentlemen know that the same kind of cattle are selling at $8 per 100 pounds in Chicago that two years ago sold at $19 and $20 per 100 pounds. I wonder if you know that the same grade of hogs that are selling at $8.50 in Chicago sold as high as $23 a year ago last summer, and so on with sheep, lambs, calves, and everything that produces meat food and prices have been "rattled down" billions of dollars. I consider that when Attorney General Palmer, of the last administration, forced divorce of the packers from their allied by-product activities that he did more to hurt the farmer and producer in America than any one thing that has happened within the last decade, and can you imagine, gentlemen, a Cabinet official forcing an agreement which stopped a competition that wa

actually selling food products to the consumer under the prices of the products the wholesale grocer handled? If that is not keeping up the high cost of living, what is?

To the statement which I have just made I desire to add that the live-stock commission man found wonderful encouragement in the words of our President in his message to the Sixty-seventh Congress discouraging governmental interference with legitimate business and it is our hope that his thought so expressed will prevail in the ultimate disposition of this bill by this honorable committee.

If, in the wise judgment of this honorable committee, they finally determine to pass some legislation along this line, I do now say, as I have heretofore said, that the live-stock commission interests have never objected to any form of registration. They do not object to any legislation which would examine their business similar to the examination by bank examiners. We feel that the control of the live-stock commission men of America by rules of the exchanges of the 27 large primary markets of the United States are equal and far superior to any control that could be passed by any legislation and that any legislation that might be passed should conform and cooperate with the rules of these exchanges.

Gentlemen, I am here now in Washington to aid this committee in furnishing any information that they may desire regarding live-stock exchanges, commission men, traders, buyers, or sellers, and I, wish to tell the committee that not only now, but if it is their desire to have me appear before this honorable committee later in the construction of any legislation, I desire to inform them that I am subject to their command.

Mr. THOMPSON. Mr. Brown, I would like to ask you a question in connection with that to clear up a situation in my mind. You speak of the retailer as being responsible for this high price of meat. For instance, in a small community, like the one that I live in, if I am a farmer and sell my cattle to my local butcher for so much on the hoof, and I go around a few days after that to buy beefsteak slaughtered by him, I am confronted by these same high prices, and the explanation he seems to give is that these big packers go in there and buy cattle in competition with him, and get his cattle away from him, he hasn't enough meat to supply the market, and consequently he has to depend upon them for not only some of their by-products, but also for their actual meats in order to supply his customers, and one of those men has said, in explanation, that before he can secure that he must enter into a gentleman's agreement that he must maintain their prices, their retail prices. Now, what is there to that?

Mr. BROWN. Well, I pointed out to you that in my opinion the organization of retailers, called the Retail Butchers & Grocers' Association, in all of the larger cities has as close a working agreement as any labor union in America. They can not break over their traces.

Mr. THOMPSON. Then, according to your statement, it is the fault of the retail butchers more than it is of the packers in keeping up this retail price?

Mr. BROWN. Well, you can find every day's quotations of the prices the packers are wholesaling their meats at, and then you can compare them with the prices the retailers are retailing their meats at, and then you can form your own conclusions, as I stated in my statement. Where 10 or 15 years ago a retailer was satisfied to make

from 3 to 5 cents a pound on meat, to-day he is not at all satisfied unless he makes 10 cents a pound on it, and he is making oftener 20 cents a pound. I think any commission that would investigate the prices of the last two years would find that to be the case.

Mr. THOMPSON. When I was a boy, in northwestern Ohio, we had our own slaughterhouses, and we had our own tanneries, and we had our own cobblers to make our boots and shoes, and we could buy meat at 10 cents a pound, and we could buy eggs at 10 cents a dozen. But now the situation is so much different that our people don't understand really what the trouble is.

Mr. BROWN. Well, I think you can very, very easily find out. This Agricultural Committee can appoint an investigating committee, and I think it is one of the functions of your committee, gentlemen, to do so. You can find out, in the first place, the profits of the packers, and I know you can find them out. I don't think the profits of the packers will show over half a cent a pound, taking it all the way through, uniformly. You can find out, as I stated a moment ago, our charges, the commission charges of the live-stock commission men.

I was the head of a committee that made a survey of the charges of all commission men in all commodities in the United States within the last year. Our average charges are one-half of 1 per cent, and it is no uncommon thing in other commodities to see a charge of from 1 per cent up to as high as 10 per cent. There is nothing that is sold on so small a commission in America to-day as live stock. The commission charges are the smallest of any commodity in the country.

Mr. JONES. Well, Mr. Brown, is there any real competition in the buying between the so-called big packers?

Mr. BROWN. Absolutely. I am a salesman myself.

Mr. JONES. Well, do you ever have them bid against each other much in procuring their stuff?

Mr. BROWN. Yes, I have them bidding against each other every day.

Mr. JONES. Well, what is the use of their bidding against each other when they are going to partition out the stock anyway?

Mr. BROWN. Well, you are predicating that remark on the assumption that they are partitioning out the stock. Do you know that they do partition out the stock? I don't.

Mr. JONES. Well, they know that they are going to get about the same amount relatively, don't they?

Mr. BROWN. I don't know that they do. I have never heard of any such arrangement. But answering your supposition. In Chicago Armour at the height of the season can kill from 6,000 to 10,000 hogs a day. Swift can kill the same. I imagine that Wilson and Morris can kill about 5,000 each, full capacity. You go down to the smaller houses that can kill from 3,000 to 1,000 hogs a day each, and there are probably six or seven of them. You then have an unknown factor in the so-called buying of the eastern shippers. They will buy in the Chicago market anywhere from 5,000 hogs up to 20,000 in a day. Nobody knows until the day is over how many hogs they are going to buy, because those dispatches come in from all points, all over the east and central west, and the packers themselves have no more idea what the eastern shippers are going to buy than

you have. So that there can not be any parcelling out of the receipts of a great market like Chicago, because there are so many factors that nobody can determine.

Mr. JONES. Well, whether 5,000 or 20,000 are bought—and you say it varies from 5,000 to 20,000—whether orders for 5,000 or 20,000 come in, it doesn't make much difference in the price that they pay?

Mr. BROWN. Yes.

Mr. JONES. If it is 5,000 to-day and 20,000 to-morrow, the price will be about the same?

Mr. BROWN. Well, of course I was here this morning and I heard the talk on the question of wide fluctuations. Very naturally, when there is a demand for from 15,000 to 20,000 from eastern shippers it creates competition that is apt to put the market up from 10 cents to a quarter, and when it is not present, why the market is apt to drop that much.

Mr. JONES. Say Swift bids $6.75 on three carloads of stock, so many head of stock, and then if Armour bids $7, or raises that bid, Swift never comes back and bids again, does he?

Mr. BROWN. He very often does.

Mr. JONES. Very often?

Mr. BROWN. Yes.

Mr. JONES. Do they ever run it up to any great amount that way?

Mr. BROWN. Well, during the war I have seen the big packers run it up on themselves anywhere from 50 to 75 cents in a day.

Mr. JONES. In normal times there isn't such a great difference as that in a day, is there?

Mr. BROWN. The fluctuations have not been as wide for the last six or seven months, but I have seen Armour outbid Swift, say, 15 cents on a load of stock. A shipper would come along and bid 10 cents more than Swift, say, and perhaps in a half an hour after that I will see Armour's or Swift's buyer buy that load of stock higher than the shipper bought it.

Mr. JONES. The shipper ran that up in that instance in that illustration that you gave?

Mr. BROWN. He did it in that instance; yes. The same thing could apply to a smaller packer. We have a factor in the Chicago market that is quite active at times called the "yard trader," the speculator. It is very often that the packer thinks that the cattle or the hogs are not worth as much as the prevailing prices; the speculator will come in and he will buy up over half the stuff, and before the day is over he may have sold all of his stuff, and probably has, to the eastern shippers and small speculators, and I have seen all the packers left high and dry, all the big packers, so they couldn't get any, hardly.

Mr. JONES. But that, again, is an illustration of where the so-called independent buyer came in and ran it up. I am talking about as between themselves, when one runs the other up and buys one lot of stock and the next lot comes in and the other man will run it up a little and take it, won't he?

Mr. BROWN. I don't find it so; no, sir.

Mr. JONES. You don't find it that way?

Mr. BROWN. No. The large packers are willing to bid on any carload of stock that comes into the market, and there isn't any withholding of their buying orders from any particular branch of live stock, or from any particular number of commission men.

Mr. JONES. Here is a letter that purports to have been written by E. A. Cudahy, addressed to Mr. M. R. Murphy, dated November 27, 1911, and I will read a part of it:

I had a call from your neighbor to-day and he agrees that we are paying too much money for hogs at Omaha and Sioux City, and that if we could get Omaha right, of course, it would regulate Sioux City, and he believes the best plan would be to let other people have what they want and then split what is left. I believe in this plan, and I would advise you to work on it for this week, and I would suggest that you either call him on the phone or see him some time to-morrow and talk the matter over.

And so forth.

Mr. CREIGH. What is the date of that letter, Mr. Jones?

Mr. JONES. November 27, 1911.

Mr. BROWN. I don't know anything about those letters, gentlemen.

Mr. JONES. Well, you were in the business at that time, weren't you, Mr. Brown?

Mr. BROWN. Yes. I wasn't in Chicago.

Mr. JONES. Have you ever known of them not seeming to bid against each other? Not raising each other? And apparently trying to hold the market that way?

Mr. BROWN. I have seen Armour stay out of the market entirely and not buy a hog.

Mr. JONES. Yes.

Mr. BROWN. I have seen Swift do the same thing.

Mr. JONES. Yes.

Mr. BROWN. I have seen each one of the smaller independent packing houses do the same thing. They probably have their own reasons, and the reason may be that they can not buy that stock to sell it to make any money. There is no law forcing those people to buy stock that is losing them money that I know of.

Mr. JONES. You have never seen any evidence, then, to indicate a sort of an agreement on the part of the big packers that they would run this up where there were certain demands on certain days, and would let things ride at a uniform level?

Mr. BROWN. No; I have never seen anything to my mind that looked like a prearranged plan, because each and every one comes in on that market and apparently disregarding everything that the other man is doing, make their own bid on their own basis, on the basis of the buyer's intelligence.

Mr. JONES. Well, if they did that it would tend to hold the prices of stock lower, wouldn't it, if the concern that bought the larger percentage of them acted upon that kind of a plan?

Mr. BROWN. I think if they all acted along any preconcerted plan to abstain from buying it would have the effect, naturally, of lessening competition.

Mr. JONES. Yes; and therefore of keeping the price lower, naturally, wouldn't it?

Mr. BROWN. Very naturally.

Mr. JONES. Then even granting, for the sake of argument, that the packers are operating on a narrow enough margin—that is, that they are not getting too much profit—would it be quite fair to the producer to have that kind of an arrangement?

Mr. BROWN. I don't think any arrangement of that kind is fair, and I don't know that any such arrangement exists. I am merely answering the hypothetical questions as you are putting them.

Mr. JONES. I understand.

Mr. BROWN. Yes, sir; that is all.

Mr. GERNERD. Mr. Brown, isn't this true, that the cost of products to-day has been materially reduced by reason of there being hardly any demands for the by-products in the slaughtering of both cattle and hogs?

Mr. BROWN. I think that has been a great factor. I think, as I said before, that the divorcing of the allied by-products activities by the Attorney General, not allowing the packers to operate as they had heretofore, has, in my opinion, done more to hurt the producer than almost any other one thing that has happened. The packer doesn't know where he is at. He could figure before this agreement that perhaps he could make good money on this by-product. I have seen times—and the packers can bear this statement out—when they will go along two or three months at a time losing money on beef, losing money on pork products, particularly in the fall of the year, when the market is continually breaking under heavy supplies, but in the wash, finally, at the end of the year, they have been able to recoup themeslves by profits that they have made on by-products, which they can not do any longer if the by-products are going to be divorced from their activities.

Does that answer your question?

Mr. GERNERD. Yes.

Mr. KINCHELOE. Mr. Brown, you were speaking of the difference between the price the producer gets and that the consumer has to pay. Have you ever in your experience seen as great a spread as there is now?

Mr. BROWN. I don't think I have, Congressman.

Mr. KINCHELOE. Well, how do you account for that? What do you give as a prime reason, in your judgment, for that spread?

Mr. BROWN. Well, my reason is that the retailer was allowed to run wild during the war. The Food Administration tried to take over these sentimental controls, the packers, and other things, and they allowed the packers to make a certain per cent; they made a certain agreement that the packers would be allowed to make, I believe, 9 per cent. There was no control of the retailer at all, and he ran wild, and he got prices up to a point that he couldn't believe himself hardly, and he has never been willing to take off. He has taken off a little bit, to be sure, a cent or two here and there, but in the close analysis of the proposition he is making a whole lot more money now than he did during the war, a great deal more.

Mr. KINCHELOE. I was very much interested in that part of your statement where you showed the difference in the retail prices between two butchers. They were across the street from each other in your city, were they?

Mr. BROWN. Yes.

Mr. KINCHELOE. I don't remember if you said what the difference was. Do you remember now what was the difference, practically, in per cent?

Mr. BROWN. Well, it was from 10 to 18 cents, I think, per pound.

Mr. KINCHELOE. Of the same stuff?

Mr. BROWN. Yes.

Mr. KINCHELOE. From the same people?

Mr. BROWN. Yes.

Mr. KINCHELOE. And they were just across the street from each other?

Mr. BROWN. Yes, sir. And that could apply, for instance, as regards these cash-and-carry stores; there are now, as you know, Congressman, in a great many cities, these cash-and-carry stores, these Piggly Wigglies, and one thing and another, where they haven't got the overhead that the retailer has, and where they can sell this stuff at that much of a difference.

Mr. KINCHELOE. But as I understood, in your illustration the overhead was practically the same in both cases; they were doing the business in the same way, practically?

Mr. BROWN. Yes; in that case it was; they were doing business practically in the same way.

Mr. KINCHELOE. Well, of course, I can see the economy of the Piggly Wiggly plan in the matter of overhead.

Mr. BROWN. Yes.

Mr. TINCHER. Now, you don't claim that the fluctuations were any worse during the war than they have been since the war, do you? It fluctuated up part of the time and it has been fluctuating down since, hasn't it?

Mr. BROWN. You are absolutely right, Mr. Tincher. The fluctuations I don't think have been nearly as wide during the last four months. Prior to that time, they have been what we thought unreasonable.

Mr. TINCHER. Some of the boys down home claim that there has been as much as a dollar a hundred in a day on some cattle and sheep. I don't know of any worse fluctuations than that.

Mr. BROWN. No; there have been declines of a dollar a hundred in cattle, and there have been advances of a dollar a hundred.

Mr. TINCHER. There have not been any advances recently?

Mr. BROWN. No; there have not been any advances recently.

Mr. TINCHER. And there can not be any more dollar-a-hundred declines, because there isn't any room for them.

Mr. BROWN. We are getting down to rock-bottom.

For the information of the committee, I, as president of the National Live Stock Exchange, tried to get together the leading men among the producers, for instance, of the farm organizations, like Mr. Howard, of the American Farm Bureau, and Mr. Mumford, the head of the Illinois Agricultural Society. I think we called in 40 or 50 of the so-called heads of the farmers' societies to meet with the representatives of the commission men of the 10 largest markets, and we called in 10 of the largest packers to see if we could not get the packers, the commission men who sold the stock, and the producers to agree upon some plan that would minimize these fluctuations you are talking about. Well, we got the packers in, and we got the commission men in, and we got acceptances from Messrs. Howard and Mumford and several others, and the producers' representatives never showed up—never entered the meetings at all.

I think that we can say without any fear of contradiction by the commission man or packer in the trade that they have been willing to meet the producer at any and all times on any basis to try to effect any improvement in the conditions that have prevailed during the last year, which we know have been abnormal.

Mr. VOIGT. I would like to ask a question, Mr. Brown. I have here a table prepared by the Federal Trade Commission, which is

found at page 243 of Part 2 of the Federal Trade Commission Report. This table gives the total purchases week by week of the Big Five packers of all animals—that is, it takes in cattle, sheep and hogs, in the principal markets of this country.

Now, I find by this table that for the week ending April 8, 1916, the total purchases made by the Big Five were 62,006 head of all kinds. That was the lowest amount for any week in that year. Now, I find that the highest amount in any week was for the week ending November 18, 1916, 190,686 head. That is, in November of 1916, in one week there were three times as many head bought by the packers as bought in that week in April.

Now, during that low week, the lowest week in the year, if these five packers were in competition, there would be considerable competition among them to get their requirements, would there not?

Mr. BROWN. Well, you have got to figure that in April you have got a month that is between seasons. I think I can say that in 19 years out of 20, the month of April is between seasons. For instance, the winter crop of hogs is marketed, and the winter crop of cattle, and the spring run, that starts in May and June, the last half of May and the 1st of June, is not started yet; it is sort of between the hay and grass period, and they could not buy any more if they tried to, because it isn't there.

Mr. VOIGT. Now, the point I want to get at is this. While during this one week there were more than three times as many head bought by the five packers, they bought practically the same percentage during both weeks. For instance, when there were 62,000 head, in that week Swift bought 34.56 per cent. When there were 190,000 Swift bought 35.76.

Armour bought 27.61 per cent in the small week, and in the large week he bought 25.95 per cent.

Morris bought in the small week 17.68 per cent, and in the large week 18.53 per cent.

Now, the thing I can not understand is how when there is a glut in the market—now here is the highest week in the year 1916—that these packers, nevertheless, go in there and buy practically exactly the same percentage. They buy practically the same percentage that they do when there is a scarcity in the market. Can you explain that?

Mr. BROWN. I don't know their method of working that, Mr. Voigt, but I think in the large week that you speak of—was it a week?

Mr. VOIGT. One week.

Mr. BROWN. One week. Well, in the large week you speak of they probably bought their utmost capacity; that was during the war period, and I think you can figure that they bought all their stuff that they could kill.

Mr. VOIGT. Well, according to these figures they bought their capacity during the biggest week, and they bought the same percentage during the lowest week.

Mr. BROWN. Well, they bought all they could buy the lowest week. In the lowest week there is a small amount of live stock.

Mr. VOIGT. Well, the thing that strikes me is: That gives the purchases now during every week in the year, and it gives the percentage bought by each of the Big Five during each week, and those per-

centages run practically constant throughout the year; it doesn't make any difference how high or how low the supply is. Do you assume that the demand for live stock on the part of these five packers is the same every day of the year?

Mr. BROWN. No; I wouldn't assume that, and I know it is not the fact. Their sales distributions are much more active at some times than they are at others. They are able to sell considerably more stuff at some times, export more stuff at some times than they can at others. But they have got to get in on those periods of big receipts; they figure it to be their duty to themselves and the producers, and they do it very often at a loss. They take that stock and they take it day after day, and they take their capacity, take all they can kill, and during the last year I personally know that they have lost money on every head of hogs that they bought when they were doing that. They were taking that chance.

Mr. VOIGT. Yes; but according to this table, in one week of the year the supply is three times as large as in another week.

Mr. BROWN. Yes.

Mr. VOIGT. And these five concerns are always buying at practically the same percentage. Now, isn't there a condition in the meat-packing industry, at times anyway, when one packer would have a greater demand for meat animals than some other packer?

Mr. BROWN. Well, I can imagine that to be the case; yes, sir.

Mr. VOIGT. Well, now, if that is the case, you would expect to find that increased demand on the part of a single packer reflected in his buying on the market, wouldn't you?

Mr. BROWN. Well, I think that the packers—now this is all supposition on my part, because I don't know of any agreement that has ever been——

Mr. VOIGT (interposing). No, no; now, let us not talk about any agreement.

Mr. BROWN. Or of any percentage; I don't know of any regulation among themselves.

Mr. VOIGT. Now, let us just get away from that.

Mr. BROWN. All right.

Mr. VOIGT. I am asking you this: You do think that there is a time in the packing business when one packer would have a larger demand for live animals than another packer?

Mr. BROWN. Why, I think it is very natural that, for instance, Mr. Wilson might get an order from Antwerp or London or Paris—wherever his branch house was—and he might beat Armour's or Swift's or Morris's salesman to that order, and get a line of stuff that he perhaps could have a bigger outlet for than they could right at that time. But, during the next day, they are liable to get in some place where they can get something that he can not get.

Mr. VOIGT. That may be true, but you don't assume now that these men equalize each other in their sales from day to day, do you?

Mr. BROWN. I think that they have a good deal of pride in their business, Mr. Voigt. I don't think that they would like to see any of the other packers get any more of the stock than they are getting, and that they think they ought to get.

Mr. VOIGT. I understand all that.

Mr. BROWN. Wait a minute. They have the ultimate idea in view that they are going to be able to sell that stuff just as well as the other fellow is going to sell it, when the time comes.

Mr. VOIGT. That is true. But I would like to have you explain, if you can, how it is that no matter what the condition of the live-stock market may be as to receipts that these five packers are all the time buying the same percentage, as among each other?

Mr. BROWN. Well, I don't know that they are buying the same percentage. You have quoted two weeks in 1916. I have not examined those records, and I don't know that to be the case.

Mr. VOIGT. Well, now, let me refer to this table. In the first week of January, 1916, Swift bought 34.73 per cent of all the purchases of the packers combined. Once in a while he jumps up to 35 per cent. Sometimes he drops to 33 and a fraction. But it averages very close to 34 per cent. You have the table there, have you?

Mr. CREIGH. This is the table that you are referring to. The report of the commission.

Mr. VOIGT. Page 243.

Mr. BROWN. This is the table, running from January the 8th down through to December 30?

Mr. VOIGT. Yes, sir.

Mr. BROWN. Now, what is your question, Congressman?

Mr. VOIGT. I would like to have you explain, if you can, why there is the uniformity of purchases, when the total purchases fluctuate?

Mr. BROWN. Well, I think that that is a capacity proposition, Mr. Voigt. I think that when the supply is large enough they will work to near capacity. That is, all they can kill, all their operating force can handle. When the receipts fall off I think that it is only natural to figure that they are going to operate on as near a basis on percentages as they would on that maximum basis, because they can not figure what is going to be taken. For instance, there are seven independent packers there in Chicago. They don't know what they are going to take; that is, what percentage they are going to take of the receipts. They don't know what percentage the eastern shippers are going to take.

Mr. VOIGT. Well, we do know this, that of all the meat animals handled in interstate commerce, all the other fellows besides the Big Five only control about 15 per cent. So, then, the men that control the 15 per cent; that is, the men that have capacity for the 15 per cent, can not very well expand their capacity to 30 or 40 per cent?

Mr. BROWN. Well, you are not taking into consideration that the 15 per cent that is handled in interstate commerce is all that the samller packer and the local butcher takes. His product never gets into interstate commerce at all.

Mr. VOIGT. That is why we don't figure it.

Mr. BROWN. Yes. I don't know what the percentage would be of the total killed. Say in a city like Chicago, that probably could be figured out. But I heard this brought up this morning, that this 84 or 85 per cent of the meat foods in interstate commerce was shipped by the Big Five.

Mr. VOIGT. Handled by the Big Five?

Mr. BROWN. Yes. But when you get to figuring the totals of the amount of meat that was packed or the amount of animals killed, you will find in the cities like Chicago, that perhaps there is a quarter of the amount of stock that is killed in Chicago that goes right into the channels of consumption in Chicago, or in such towns as Gary or the different towns around Chicago, that can be reached by truck.

Mr. VOIGT. Well, I think that that class of animals that are bought in the Chicago market are included in this table. You will notice that this table says: "Cattle, sheep, and hogs for principal markets combined." Now, then, that takes in all animals that are bought and sold on the markets, so that takes in that.

Mr. BROWN. Well, that would not take in meat in interstate commerce, though.

Mr. VOIGT. Yes; I take it that this takes in all the animals that were sold on the principal markets, whether for interstate consumption, or for local consumption.

Mr. BROWN. Well, I am not advised on that. An expert could tell about that.

Mr. VOIGT. Well, now, let us get back to the question. If all the other packers outside of the Big Five control 15 per cent of the interstate product, they could not, by any stretch of the imagination, run at double that capacity, do you think so?

Mr. BROWN. Well, if your supposition is right—which it is not—I happen to know that in the Chicago market the eastern shippers and the packers outside of the Big Four (Cudahy is not packing in Chicago)—I happen to know, and I think the figures will bear me out, that a great deal of the time the Big Four packers will not take over 50 per cent of the hogs or cattle.

Mr. VOIGT. Well, I am basing my assumption on the report of the Federal Trade Commission.

Mr. BROWN. Well, there is a lot of that report that I don't believe, and a great many other people don't believe.

Mr. VOIGT. Well, at the last hearing on this subject I think the packers admitted that they controlled about 85 per cent of all meat in interstate commerce.

Mr. BROWN. That may be.

Mr. VOIGT. Now let us assume that the small packers could swell up their capacity to 25 per cent. That would still leave 75 per cent of all the animals in interstate traffic to be taken by the Big Five. Now you say that these figures that I have called your attention to are based on a capacity assumption.

Mr. BROWN. I would imagine that if there was any comparison of that kind made that they would figure from capacity; yes, sir.

Mr. VOIGT. Well, now then, judging by these figures, they evidently have the capacity to absorb all the cattle and hogs and sheep that they purchased during these weeks. They did purchase 185,000 in one week, and they purchased 60,000 in another week. Now, then, when they purchased the 60,000 they only purchased one-third of their capacity, that is true. Now the thing I can not get through my head is why then they were only running one-third capacity there wasn't one of these five packers that had a bigger demand for the stock that was offered during that one week then when 185,000 head were offered. I would like to have you explain that if you can.

Mr BROWN. I can not, but I think that if you asked one of the large packers—and you probably will have one before your committee—he can explain that very readily.

Mr. CREIGH. Mr. Voigt, will you pardon me. Take your column there for Cudahy.

Mr. VOIGT. Cudahy?

Mr. CREIGH. Yes.

Mr. VOIGT. The week ending April 8 you bought 11.84 and the week ending November 8 you bought 9.62. Your average appears to be somewhat over 10 per cent. You went a little above in April and you fell a little behind in November.

Mr. CREIGH. In other words, when the flood of the cattle was coming in there we fell off 25 per cent from what you would call an agreed percentage.

Mr. VOIGT. You didn't fall off any 25 per cent.

Mr. CREIGH. From 8 per cent, if you please, to 11.

Mr. VOIGT. In the week ending November 18 there were 190,668.

Mr. TINCHER. They bought what per cent of that?

Mr. VOIGT. Cudahy bought 9.62 per cent during that week. The thing I can not understand about this table is how these purchases run so uniform for all these packers, no matter what the amount of stock there is. I would like to have some one explain that, if it is capable of explanation.

Mr. TINCHER. What he wants to know is this: You had the same capacity in April as you had in November?

Mr. CREIGH. That is right.

Mr. TINCHER. And you only bought 682 head of cattle that week.

Mr. CREIGH. Six hundred and eighty-two?

Mr. TINCHER. How many were they?

Mr. CREIGH. Heavier than that. More than 682 cattle.

Mr. BROWN. Why, Mr. Tincher, I don't think that you will find that they have the same capacity.

Mr. TINCHER. Six thousand eight hundred and twenty head of cattle.

Mr. CREIGH. Now wait. I hate to take up Mr. Brown's time, but this is something that you men have been after, so I will stay by you as long as you wish, or when it is my turn I will explain it. I think if you will listen and understand it—and I don't say that you are not trying to, but things that seem sort of easy on this side are kind of difficult for you men that are in there. Now take this figure. What is the week, if you please, Mr. Voigt, that you are working on?

Mr. VOIGT. Do you want the high week or the low week?

Mr. CREIGH. Well, you started on the week of April 8, 1916. This is in cattle.

Mr. VOIGT. No, this is cattle, hogs, and sheep combined.

Mr. CREIGH. Well, the table Exhibit No. 2 is what I am looking at. Which one is your table?

Mr. VOIGT. Page 243.

Mr. CREIGH. That is cattle there, if you please. The next page is hogs, and the next page is sheep.

Mr. VOIGT. All right, take the cattle.

Mr. CREIGH. Now, the week of April 8 there were total purchases of all packers of 62,606 head.

Mr. VOIGT. No; 62,006, practically 62,000.

Mr. CREIGH. Sixty-two thousand and six. Well, that is due to my eyesight. It looked like 62,606.

Mr. VOIGT. Well, practically 62,000.

Mr. TINCHER. You bought 11 per cent.

Mr. CREIGH. We bought 8.31, for Cudahy. Well, that would figure about 5,000 head, I should say.

Mr. TINCHER. All right. Now, what did you buy in the high week?

Mr. CREIGH. Now here is the high week, November 18, 190,686, and in that week we bought 9.62. In other words, we increased more than 10 per cent of our whole business during that time.

Mr. VOIGT. You bought three times as many in that later month as you did in that earlier month.

Mr. CREIGH. Well, let me explain that. It is perfectly easy to explain. Now, as to these receipts, Mr. Tincher probably and some Montana people know better than anybody else, that there is every sort of a grade of animal coming along in the fall. In these earlier and slack seasons there is more or less of steady trade. In these later times there are all sorts of grades, for canneries and that sort of thing. Differences in grades and in users of the stuff, that is, as to whether you have got a butcher trade or canning trade, and all that sort of thing. Now, the differences in the animals here are so infinitely great that when you come to try to compact them into a percentage thing it has no meaning at all, practically. It has a very apparent meaning to one that doesn't know what is underneath there.

Mr. TINCHER. In speaking of grades, I understood that the packers only bought about four grades, and sold 45; is that it?

Mr. CREIGH. Of cattle?

Mr. TINCHER. Bought about four grades and sold 45. Or is it 45 grades that they bought, and sold four grades?

Mr. CREIGH. Well, I think they buy every sort and kind, and sell every sort and kind.

Mr. TINCHER. Well, if you had 62,000 head of cattle on the market, and you handled 5,000 of them, and at another time when there were about three times as many head of cattle on the market you handled about the same percentage, I can see the mystery that surrounds the thing, and from the knowledge that I have got I am frank to say to you that it is not as clear to me as it seems to be to you. It is not as clear to me as it is to you, when you, with your same capacity, handled 18,000 head on one day, more than 18,000, and handled the same per cent on the day when the lowest number were on the market, that is, handled the same relative percentage as to numbers.

Mr. CREIGH. Now, look at the difference in the per cent, if you please. Now, here in this April period we had 5,000 cattle, wasn't that it?

Mr. TINCHER. Yes.

Mr. CREIGH. Probably that is the slack season, and they were not quite up to their capacity, so of the 6,000 that we could have sold if they had been in, we were running 5,000. Now, here is Cudahy with 9 per cent. That means 5,000 cattle a week, at $100 a head, amounting to a half a million dollars just on our little 9 per cent. In other words, there is $50,000, more than $50,000, on every single per cent in there, and that is just one week's business. Now, if we run the 9 per cent up to 10 per cent we have increased more than 11 per cent on our entire capacity, haven't we? The 1 per cent is so small when compared with the 100 per cent, but yet look what it does for Cudahy when you add that 1 per cent; when you add that 1 per cent of the 100 per cent it means 10 per cent of Cudahy's business. When you go from 9 per cent up to 10 per cent, that means an increase of 11 per cent for Cudahy; it is 11 per cent of our business. And yet as we look at it here it is only 1 per cent, but with all of these animals it means tens of millions of dollars a year. After all,

these tables are simply like the actuarial tables; take the men in this room here and when you make up the figures it doesn't seem so much, but you get into the millions, and taking it year after year, the tables can not be anything else than relatively stable.

Mr. TINCHER. Well, now, Mr. Creigh, take this letter that was read here, written by Mr. Cudahy.

Mr. CREIGH. I am glad you bring that up, Mr. Tincher. The impression that you and every one here reading the Federal Trade Commission report get is that we, the packers—and Cudahy is one of the five—have been working on an agreed percentage of 10 isn't that it? During all this period of time. Now read that letter of Mr. Cudahy's, any of you, from the standpoint that all the time he had an agreed percentage. Why, the thing is perfectly obvious that he hadn't any agreed percentage. And the testimony following shows that there wasn't. The figures there show that there isn't any such thing. The figures show that we are after all that we can get. Every one of those letters, read from the standpoint of men who know and understand the situation, and the custom, shows that there wasn't any such thing.

Mr. CLAGUE. Well, Mr. Creigh, this Denver letter spoke of a fifty-fifty basis.

Mr. CREIGH. Why, I know. Now of course I am not familiar with the Denver situation, but isn't that a perfectly natural thing? Here are two packing houses out there with relatively small receipts, a relatively small market and all that. Now you have got two packing houses out there, two markets. What are they going to do? It may be sixty-forty or it may be fifty-fifty. Somebody is going to do about so much business, and the other fellow is going to do about so much business; both houses have got to run. Always at the end of the year you will be able to work out a percentage. You couldn't have 100 per cent one week to Armour in Denver, and 100 per cent the next week to Swift. Even if you had it that way it would work out fifty-fifty at the end of the year.

Mr. WILLIAMS. What is the meaning of this letter that Mr. Jones read, as you understand it?

Mr. CREIGH. The meaning of it?

Mr. WILLIAMS. Yes.

Mr. CREIGH. Well, in the first place, with reference to percentage, the letter absolutely shows that there was no percentage at the time. Now then, the letter, as I recall it—well, let us just see it. I am not afraid of that letter, written 10 years ago.

Mr. JONES. It is on page 55.

Mr. CLAGUE. Read it, Mr. Jones.

Mr. JONES. It is in part 1, at the bottom of the page.

Mr. CLAGUE. Well, read it again, Mr. Jones, so that we will all get it.

Mr. CREIGH. I will read it. This letter was written 10 years ago, but that letter absolutely shows that there was no percentage.

Mr. CLAGUE. Go ahead and read it.

Mr. CREIGH. All right. Now this is a letter from Chicago to M. R. Murphy. The first paragraph has nothing to do with the proposition.

Mr. CLAGUE. What is the date?

Mr. CREIGH. June 21, 1911. Now this is at the time when we are charged with having a percentage; it is charged that we were having

a percentage of 10. (Reading) "When I was coming to Chicago Monday night Mr. R. C. Howe was on the train."

Mr. JONES. That is not the letter. It is in Part 1, page 55, at the bottom of the page, dated November 27, 1911, and addressed to Mr. M. R. Murphy, South Omaha, Nebr.

Mr. CREIGH. All right. [Reading:] "I had a call from your neighbor to-day"—this is addressed to our manager at Omaha—"and he agrees that we are paying too much money for hogs at Omaha and Sioux City."

Mr. TINCHER. Who is his neighbor? Who does he mean?

Mr. CREIGH. I haven't the slightest idea. You can take it as being Armour or Swift or Morris. It might be anybody. [Continuing reading:] "And that if we could get Omaha right, of course, it would regulate Sioux City, and he believes the best plan would be to let other people have what they want, and then split what is left. I believe in this plan, and I would advise you to work on it for this week, and I would suggest that you either call him on the phone or see him some time to-morrow and talk the matter over. We are killing a lot of hogs, and there isn't anything in them, and it is about time that we should be able to buy them at a margin."

Now what bearing has that an an agreed percentage proposition, if you please? As a matter of fact, it shows there isn't any. The charge here that you are all working on is that there has been a continuous percentage right straight along all the time.

Mr. TINCHER. The percentages that Mr. Voigt read were those that occurred after the date of this letter.

Mr. CREIGH. I beg your pardon.

Mr. TINCHER. The percentages that Mr. Voigt read occurred after the date of this letter. It seems that those figures, those percentages, were after that time.

Mr. CREIGH. When we get into the figures we find there is no percentage there at all.

Mr. JONES. One of the big packers had a percentage that did not vary 1 per cent from 34 all the way through, in one table, that I noticed.

Mr. CREIGH. All right, the bigger you get the more your figures are going to remain about the same. Cudahy can wabble around because he has got——

Mr. WILLIAMS (interposing). What is the suggestion in that letter as to letting the other fellows have what they want? The letter says: "And he believes the best plan would be to let other people have what they want." Now what about that?

Mr. CREIGH. All right, let us take it at its face value. Who are the other fellows?

Mr. WILLIAMS. I take it that is the additional buyer.

Mr. CREIGH. No; there are four packers out there, and he is talking with his neighbor, whoever it is. Now, there are two of them. Now, who is the other fellow? The other fellow may be Swift or Morris; we will assume that it is Armour whom he is talking about. I haven't any idea. Now, then, there are four of them trying to buy. Now it shows they can not agree. "We haven't any agreement in here." "Let us stay out of the market, and let them take what they want." Now, where is there any 10 per cent or 30 per cent in

that letter? It is demonstrable to me that there isn't any such thing.

Mr. McLAUGHLIN of Nebraska. Mr. Creigh, while you are explaining these letters I would like to have you, if you will, refer to the letter on page 66. It speaks of the usual percentages, and uses the code for the packers instead of giving their names. Explain what the usual percentages are and what this code is.

Mr. CREIGH. Well, now that is perfectly simple when you know about it. It is one of the illustrations of how you can take a mole hill and make a mountain out of it. Here are some percentages that were used to cover some legislative and general matters. There is nothing here at all about packing-house business or buying cattle or sheep or hogs, or selling of goods or anything. It is perfectly obvious on the face of it.

Now, you were talking about the code part.

Mr. McLAUGHLIN of Nebraska. Yes; what is the use of using the code? What is the purpose of it? I wish you would explain that.

Mr. CREIGH. Why, in the packing business there are certain initials used to designate the different people. When you use "S. & S.," for instance, that means Schwarzschild & Sulzberger. "S." up here is Swift; "A." is Armour; "C." is Cudahy; "S. & S.," as I said, is Schwarzschild & Sulzberger. Why, all our cattle men designate them in about the same way; that is the way it is done in the trade; that doesn't mean anything. There is nothing suspicious about it. It is perfectly normal and rational.

Now, just imagine, you men here on the committee, what it is that has brought about this great public opinion in the United States, the great hue and cry of "the packers," the "Beef Trust," and all that. What is the evidence of an agreement affecting all the meats? Why, a little memorandum that Mr. Veeder writes to Mr. Traynor, that the lawyers in their litigation matters, in the general litigation of the trade, divided it up on certain agreed percentages. That is as to one man, and not to anybody else.

Now, here we have the meat-inspection act. Now, the packers are under it. I was very glad to hear Mr. Taliaferro testify here yesterday that the packers did not oppose the meat-inspection act as an act, but what at the time they were after was what they felt to be the unfairness of loading upon them the cost and the losses of the inspection. All that is past. We can not fight that battle over again. If you knew the millions of dollars that are dumped into the tank on inspection and absorbed into the business I think you would agree with the packers that it is a little hard on them. Somewhat unfair. However, that is what we have to stand. That is part of the gaff of the business.

Now, as to the meat-inspection act, it is a fine thing. The packers always wanted inspection. Now, here we will say we have a yardstick. This represents the whole act. There will be 36 inches in that yardstick. Everybody is harmonious all the time. Perfectly easy. However, if you begin to go to the extreme in the enforcement of some technical point, in one way, and you get a critical fellow the other way, when you get out to inches one and two at each end of it you make it pretty far apart. Now, there may be a lot of money out there, too. For example, the inspectors very properly are very keenly interested, when they condemn stuff, in having it tanked.

Now, the tanking would be an entire loss. As I recall it, there were times when, we will say, fats either had to be tanked or to be denatured, they had to be colored pink. Now if you color a fat pink you could not use it in soap. And I don't know how long it took to get the technical bureau over here away from their pink business which they had in mind. In the meantime here were perfectly good soap fats that were being dumped in the tank, and the packer was losing his money, wasn't getting what the stuff was worth, and the public was losing equally with him. Now, here was an extreme case amounting to thousands of dollars which it took months to correct.

Now, the packer hasn't any kick at all on regulations within their normal lines, but there are so many, many times that these things are done in an extreme way, that he is naturally anxious to get down to where the law is reasonably definite, and where he will get fair play, quick attention, instead of the governmental way. And there are perfectly obvious reasons for that. I don't criticize them. But they cost us money by placing an expense on us, and somebody has got to pay for it.

Now we come to another point on this.

Mr. CLARKE. Just a moment. You heard the Secretary's talk this morning, did you?

Mr. CREIGH. Part of it, anyhow.

Mr. CLARKE. Would you agree in letter and spirit with what he said on that? Just a question of working out the detail of it?

Mr. CREIGH. Well, I appreciated and approved very much what I thought was the general spirit of conservatism and so on as expressed by him. Remember now, he has been one who has probably been closer to this subject in the last 10 years than anybody in the room, working it from the other side, and he says that the farther he has gone along the line of investigating this the more he begins to wonder what it is all about and whether he has been right.

Mr. CLARKE. But he also said that there are some things to be remedied.

Mr. CREIGH. Very good. I wish you men could appreciate what wonderful things there are in what Mr. Brown has said to you in his statement about what the live-stock exchanges, through their rules and regulations, have themselves accomplished, by the elimination of unfair practices. And that has been done just through the exchange—the National Live Stock Exchange. Now I was very much interested in what was being said this morning, and while Gen. Lightfoot was talking I wanted to break in one time. I have read what you call the Tincher Grain Exchange Bill, and along that line I see that you are trying to put in something in the way of a United States Standard Exchange, or something like that, where, really, for the operation of that law, you try to take the benefit off an existing business mechanism to more or less self-police the thing and work it out. That is fine. I think the packers here welcome any chance in the world if we can get away from the bureau at Washington, and put things at home, around the exchanges, where everybody knows about it, where we can get prompt treatment in matters that need correction, where we can correct grievances where there are such. Everybody wants to correct them and have a record, right and proper, without having to hear 5 or 10 years afterwards of a lot of alleged agreements which are not so.

Now there is wonderful machinery possible in the way of exchanges. That is the way all the business in the world is done, really. Now, before you had any live-stock exchange, where the commission men get together and make fair business trading rules, you probably did not have the honesty or the certainty of getting back your money, you live-stock shippers, that you do now. Now you take the money, you are glad to get it; the practice is right, but while we are doing it, let us not forget that there have been years of experience and effort and trading custom and standardizing behind all this, and the raising of business practices up to this point, and the business men themselves have been doing it.

Mr. CLARKE. Your talk is right in agreement with the Secretary's thought.

Mr. CREIGH. Well, now, there is the machinery. Now if we can get practical business men to work it out, to give us the supervision in there so that things are not done wrong, why everybody will welcome it.

Mr. TINCHER. What do you mean by that? Let us see if I understand you. Do you mean that you would be willing for a law to be passed that would have the Secretary of Agriculture designate you as a packing plant, and that you would furnish your rules and regulations and report your system to him before you are designated, and he would have the power to cause your designation?

Mr. CREIGH. If you substitute "exchange" for "a packing plant," I think I would go pretty nearly with you.

Mr. TINCHER. The grain exchange has got power over the grain dealer.

Mr. CREIGH. Well, let Mr. Brown explain to you the power that the live-stock exchange has over the commission man.

Mr. TINCHER. I understand that, but let us see how much power they have over the packer.

Mr. CREIGH. Well, let us put the packer in the exchange, and make them subject to the fair exchange trading rules. They don't like this manipulation, the South St. Paul situation. Get people on the ground that know the business and have an ordinary grievance committee.

Mr. TINCHER. I have read the Haugen bill, and Mr. Williams has introduced a bill which I have been reading this afternoon. It is along that line. I don't know, the business is not exactly alike, but both of those bills have a tendency——

Mr. CREIGH (interposing). Let me show you the difference between them. Now, here is, we will say, the McLaughlin bill, and this is not aimed at you, particularly, Mr. McLaughlin, when I refer to the McLaughlin bill, but that is the one I have the best in mind. There you have a long list of general things that are hereby made illegal. Now, a shipment of cattle comes in, and for some reason or another suppose the packer has not treated them quite fairly at South Omaha to-day. Now, under my system I would have a grievance committee in an exchange out there, made up in a representative way by the commission men and the Government officials and packers, so that anybody who has a grievance can take it up right there and have the matter determined immediately.

Now, what is the McLaughlin bill machinery? Now, here is about what it is: Somebody in 10 days or a month might write a letter down

here to Washington. Some time after it has gone through various steps an inspector comes out there, and he wants to know what one of our buyers did at some time back. The fellow might not now be in our employ. We make the best report we can, and nine months later a formal complaint is made. Now, that transaction is all over with. It has been completed long ago. Here comes the complaint, and with it the publicity, the charges of unfair practices and everything else, and in a year or so afterwards we are ordered to desist from doing something that we never did before or never have done since. And I am not putting a hypothetical case. I have got one thing in mind now where exactly that thing has taken place. Why, it is past months ago, and yet we are in the grind of a tremendous, big machinery that makes us desist from something that months before the complaint was filed we had ceased doing. Yet that is the way it works. Now, imagine practical business men trying to do business efficiently, quickly, fast, when you have to monkey with that sort of Government machinery. Put it right into the yards. Every packer would be with you.

Mr. TINCHER. Well, I am glad to hear you say that all the packers will be with us in some law. I had always understood that they were opposed to everything.

Mr. CREIGH. Of course, I don't know how it is that all these understandings are had. You say "I have always understood." I don't know where all these understandings originate.

Mr. TINCHER. I will tell you where mine originated: From reading the hearings before I came to Washington, and from listening to evidence after I came here.

Mr. CREIGH. But everybody has been fighting these things and saying these things won't do any good.

Mr. TINCHER. Well, here is a sample of the attitude we have had on these questions: A distinguished gentleman testified yesterday, and he was very enthusiastic in his statement as to the proper way to handle the question; his method of solving the question was to strike out all after the enacting clauses.

Mr. CREIGH. Well, of course that is one way of doing things, as we laughed over the thing together, but have I ever taken such a position as that?

Mr. TINCHER. No; you have never taken such a position as that, but that has been the general tendency in the testimony before these committees since I have been here hearing the testimony, and as I have gathered from reading it before I was here.

Mr. CREIGH. Well, let us look at it from two angles. If I came across here right now and put up a bill to the committee that I thought was pretty good and practical, and if I had every packers' indorsement of it, I am afraid that a lot of you would figure this way: "Well, we have got to do something different from that." You and I have laughed around here together so much about the bill that we were going to draw up, but I will say, Mr. Tincher, that I will write a dandy bill for you, it will be fine, it will be practical, and you can have your name on it, and I will write the bill.

Mr. TINCHER. We have had so many good bills prepared already that I don't think it necessary.

Mr. CREIGH. Well, let us make a better one. We can do it.

Mr. TINCHER. Well, if we go at it in that spirit we will be able to have a good bill, a bill that will be fair and effective, and I think the country will benefit by it.

Mr. CREIGH. Go on, I welcome a bill made in such a spirit. And, as I say, I think nearly every other packer will do the same thing.

Mr. TINCHER. I ask, Mr. Chairman, that the bill that the gentleman is going to prepare to cover this be made a part of these hearings and inserted at this point.

Mr. CREIGH. I don't hear the motion to adopt it, however.

Mr. TINCHER. I think every member of the committee would like to see it.

Mr. CLARKE. Well, the suggestion was made this morning to see if these gentlemen could not combine and present a suggestion along this line.

Mr. KINCHELOE. Mr. Chairman, I think we ought to get along with this witness that is on the stand.

The CHAIRMAN. Mr. Brown, I understand that you have to leave soon. I desire to ask this question. I understood you to say that the market agencies in the stockyards, the exchanges in the stockyards, preferred to be under the Interstate Commerce Commission.

Mr. BROWN. Yes.

The CHAIRMAN. Will you kindly go into detail a little more on that, Mr. Brown?

Mr. BROWN. I am instructed by the exchanges to say that of the bills that have been under consideration, they consider the so-called Haugen bill the fairest bill for all concerned that has been presented. They particularly like the feature, I believe, that they would be accorded fairer treatment under the Interstate Commerce Commission than they would under the other commissions.

I listened to the Secretary of Agriculture this morning, and I want to say that I thought that most of his remarks on this situation were very fair. I would not say that it would not be for the best interests of the trade—personally, and I am speaking now for myself—to have this industry under one control, if it has got to be controlled. For instance, if it should be the Interstate Commerce Commission, or if it should be the Department of Agriculture, I can see where the multiplicity of Government employees that might be occasioned to watch different branches of the industry, the stock yards and commission men on the one side by the Interstate Commerce Commission, and the packers on the other, by the Department of Agriculture, would cause increased expense by the Government, and it might be an economic proposition that should be favored by all of us for the good of the Government to have it under one commission.

But up to the time of the discussion that I heard this morning I felt that perhaps the Interstate Commerce Commission was the commission that should handle our particular line of business, which is largely involved in interstate commerce. And I think that I expressed that to you before, Mr. Chairman.

The CHAIRMAN. Yes.

Mr. BROWN. Now there is another matter that has been brought up here. We have been under the Department of Agriculture and the Bureau of Markets have so-called control and supervision over us. They did not function. We caught two bare-faced, red-

handed crooks on the Chicago market that were absolutely confessed criminals. The Department of Agriculture, through its accounting department of the Bureau of Markets, found those men, found through their examination that they were crooked. Within two weeks after this was found out the Chicago Live Stock Exchange, of which I was president at the time, expelled both of those parties. The Bureau of Markets in the Department of Agriculture, through its licensing control, have not suspended or expelled them since, nor at any time. I brought that out with Mr. Tincher. Mr. Tincher has heard me bring that up before. I think you have, too. I stated that before the Senate committee under the Gronna bill. Exchanges operate quickly. Governmental bureaus and departments do not operate within six months to a year, if they operate at all. I don't know why. Perhaps some of you gentlemen can tell me.

Mr. TEN EYCK. Along what lines were they crooked? Tell us that in just a word.

Mr. BROWN. Well, for instance, one concern would sell a drove of cattle at $12.15 per hundred; they would make their return to the shipper $12, and keep the 15 cents per hundred. The other concern added on to their feed. For instance, they gave 3 bushels of corn to a load of hogs, and just as an example, they would charge 5.

Now, those concerns were promptly expelled and were put out of business, and have been unable to get back into business since.

Mr. TINCHER. I don't just understand you, Mr. Brown. Now, what is it that the Bureau of Markets has not functioned in?

Mr. BROWN. The Bureau of Markets, through their accounting department, discovered that irregularity. The accounting department reported it in to the Bureau of Markets at the same time that they reported it to the exchanges. The exchanges, I think, in one instance, expelled a man inside of a week, and in the feed instance, after an examination, they expelled them within two weeks.

Mr. TINCHER. Well, what action would be necessary for the bureau to take afterwards?

Mr. BROWN. Revoke the license which, under the Lever Act, would have made them discontinue business.

Mr. TINCHER. I wanted to know if they abandoned that through neglect, or if they took it that your action was sufficient. That action of yours barred them from doing business. Your own action put them out of business, did it not?

Mr. BROWN. Well, I will tell you about that. In the case of the concern that was crooked on feed they made a stipulation with that concern, through the chief of the department, Mr. Brand, that if that concern would return $20,000 to its customers, they would allow them to continue business. Notwithstanding that stipulation with the department, the Chicago Live Stock Exchange expelled them.

Mr. TINCHER. They had friends at court down here, those fellows did. There was some very serious criticism of the Bureau of Markets for reporting them, don't you recall?

Mr. BROWN. Yes.

Mr. TINCHER. And every influence brought to bear that certain parties, Members of Congress, could bring to bear to have them reinstated on the exchange.

Mr. BROWN. Well, should a crook have any friends down here in Washington, Mr. Tincher?

Mr. TINCHER. No; but I would not want to say that the man who was so interested in them here and worried you so much about that was actuated by improper motives. I don't know. I felt like you did, that the Bureau of Markets were subject to certain criticism for their failure to act in that matter. However, the Government investigation and report did result in a great deal of good, even if you had to do it youself.

Mr. BROWN. That is what I pointed out in my statement, and I believe the only good that I can recollect that did happen by Government supervision was the examination of accounts. I believe that is an act similar to the banking act.

Mr. CLARKE. Do you think that in case of differences developing in the stock yards that a board of arbitration, or some body can quickly decide on those things, and, if necessary, the reports be made in permanent form for future reference?

Mr. BROWN. I think that is a good thing, and that is a function of the arbitration committee of each exchange in the country, Mr. Congressman. They are doing that.

Mr. CLARKE. How many of these differences do you develop in here? That is, just roughly.

Mr. BROWN. Well, I should imagine in the Chicago exchange there are probably complaints that will run from three to five a month.

Mr. CLARKE. Well, that would represent a percentage, in round numbers, of what? I have no idea of your transactions.

Mr. BROWN. Oh, it would not be one one-hundredth of 1 per cent of the transactions.

Mr. CLARKE. One one-hundredth of 1 per cent?

Mr. BROWN. No, sir.

The CHAIRMAN. As commission men do you come in frequent contact with the Interstate Commerce Commission?

Mr. BROWN. Well, only in connection with railroad rates, Mr. Haugen.

The CHAIRMAN. What has been your experience with the Interstate Commerce Commission? I just wanted to make it clear what is your choice now. And what is your reason for it.

Mr. BROWN. Our experience with the Interstate Commerce Commission is that they have been eminently fair. I think that in the majority of cases where contentions have been brought up by the commission men and the farmers, they have won out. That is, the commission man has won out in his contention in 75 per cent of the cases, and we find that they are as fair a commission as we could ask.

The CHAIRMAN. Well, this matter has been discussed from time to time, and I don't know as anybody has any special interest in it, but if there are any choices will you kindly state them, and the matter will, of course, be given consideration. As you are the only one here to be affected by it, that is representing the stockyards and commission men, I would like to have your opinion about it.

Mr. BROWN. Well, as I said, before I heard the Secretary speak this morning I was very firmly convinced that the Interstate Commerce Commission should handle the cases, as far as our end of it was concerned, but I can see, in these days when taxation is being multiplied by leaps and bounds, in every State in the country taxation is piling up, and in the municipalities the same way, and in the Government you men find here that you are asked to pile up taxes

on the people—I think that any fair-minded man must see that from an economic standpoint, that perhaps the proposition should put all of the industry under one control.

Mr. TINCHER. Well, to do that you eliminate the Interstate Commerce Commission entirely, because it would not be fair to them to give them any more than the part that is directly related to transportation.

Mr. BROWN. Well, I guess they are swamped now, Mr. Congressman.

Mr. TINCHER. Yes. It would not be fair to put the packer control on them.

Mr. TEN EYCK. Your answer then would mean either a new commission or the Secretary of Agriculture.

Mr. BROWN. Well, I prefer the Secretary of Agriculture. I don't think that any new commission would get to first base.

Mr. TINCHER. They would get their salaries.

Mr. BROWN. And that is about all the most of them care about, I guess.

Mr. LIGHTFOOT. In view of the fact that you have been asked about this, I would like to ask you this: I understand from your remarks then, Mr. Brown, that if the committee in selecting the agency to enforce the bill, should select the Secretary of Agriculture, that you personally see no objection to that?

Mr. BROWN. I would not. I think the Secretary of Agriculture would treat us fairly.

The CHAIRMAN. Any further questions?

Mr. GERNERD. Just let me ask you a question. This is not just on this subject. We have been hearing so much about this spread. Isn't it a fact that the packers made a considerable amount of their profit out of the by-products from the steers and hogs that they killed?

Mr. BROWN. Yes, I think that that was one of the most lucrative parts of their business.

Mr. GERNERD. And that now that those by-products are in many instances not having any immediate demand, there is no market for them, therein lies the loss of profit in the packing business in the last year and a half?

Mr. BROWN. I think that is very true. I think the fact that they have been unable to sell their hides, that they have been unable to sell their wool—I think some of them have hides and wool in their warehouses that they have had there now for nearly a year—that they have got to protect themselves on the prices of the stuff they do sell.

Mr. GERNERD. And aren't there many instances where the meats were sold for less than actual cost, and that they were really carried through on the profits made by the by-products?

Mr. BROWN. I think if you will ask that question of any one of the packers they could, from their statistics, show where they have operated the slaughter of cattle and hogs, and the sale of the meat and the pork at a loss for weeks and months at a time, having in mind all the time that they could do that because the profit on their by-products would protect them.

Mr. GERNERD. What gets me is that the packers have never let the public really in on the actual facts, and permitted the public to be misled on the prices of meats.

Mr. CLARKE. Do you mean an educational campaign?

Mr. GERNERD. Certainly. I don't see why they have not indulged in it. They are getting the blame for it, and the dealer and butcher are taking advantage right along the line.

Mr. BROWN. I think the packers have adopted a policy during the last year of publishing the prices from week to week.

Mr. GERNERD. But you don't see the editorials in the newspapers that gee with the things that are published.

Mr. BROWN. The public doesn't understand.

Mr. GERNERD. They don't. I am giving it to you as I find it in my own district.

Mr. BROWN. Mr. Chairman, if you will permit I will ask the secretary of the National Live Stock Exchange to read some dispatches here which have been received from five or six of the principal markets regarding the legislation which is proposed. I would like to have read into the records these dispatches, and the secretary, Mr. Boyd, will do so. Mr. Boyd has been in the railroad service, the live-stock end of it, for the last 10 years, and if you have any questions to ask him relative to the railroad end, the interstate commerce end, and the functioning of the railroads in connection with the live-stock transportation, he can answer them from an expert's standpoint. I will ask that you hear Mr. Boyd.

The CHAIRMAN. We will be glad to do so.

Mr. BROWN. And may I be excused?

The CHAIRMAN. Yes; unless there are some further questions to be asked of you, that will be all. Thank you.

STATEMENT OF J. S. BOYD, SECRETARY OF THE NATIONAL LIVE STOCK EXCHANGE, CHICAGO.

Mr. BOYD. My name is J. S. Boyd, and, as Mr. Brown said, I am secretary of the National Live Stock Exchange. I will read these telegrams.

This is a telegram from Sioux City, Iowa, dated May 4. [Reading:]

EVERETT C. BROWN,
President National Live Stock Exchange,
Hotel Willard, Washington, D. C.:

Our exchange wired for a hearing on the Norris bill last week. If same be granted request you to represent us. We are and have been opposed to having live-stock exchanges and their members entangled in banker and stockyards legislation, their business being entirely foreign to that of the exchanges, and because we believe the exchanges are amply able to protect the producer in the appraisement and sale of live stock. The Sioux City Live Stock Exchange has been so protecting shippers to this market for 38 years and are still able to do so with all the effect of the law, except that we are not able to make a complete examination of the private records of its members, and we have no objection to regulation in that one particular. If the producers are to be saved from complete ruin, this agitation must be stopped. Prices and feeding conditions are in bad shape, due we firmly believe, in large measure, to the continued wrangling of the past three years.

We respectfully request Congress to stop injuring the live-stock industry by constantly introducing such class legislation as this proposed bill.

W. J. DOWNEY,
President Sioux City Live Stock Exchange.

Here is another telegram dated May 4, from South St. Joseph, Mo. [Reading:]

EVERETT C. BROWN,
President National Live Stock Exchange,
The New Willard Hotel, Washington, D. C.:

The South St. Joseph Live Stock Exchange, organized 23 years ago, are at this time and always have been opposed to Federal legislation affecting the live-stock and packing industry as unnecessary and class legislation. We feel that the constant agitation for Federal control of the live-stock and packing business has already exerted a very disastrous effect on the live-stock markets, which have broken down prices to a level which are ruinous to live-stock feeders and raisers. We believe that this industry needs a rest rather than more legislation, and appeal to Congress to stop further agitation.

SOUTH ST. JOSEPH LIVE STOCK EXCHANGE,
By GEO. H. DAMSEL, *President.*

Here is another telegram from National Stock Yards, Ill., dated May 4. [Reading:]

EVERETT C. BROWN,
President National Live Stock Exchange,
New Willard Hotel, Washington, D. C.:

The St. Louis Live Stock Exchange is unalterably opposed to Government legislation of the live-stock industry for the reasons that it is absolutely unnecessary and is class legislation. Regulatory measures favorable to the producer in selling his live stock have always governed our transactions since our existence, covering 35 years, with all the effect of this law, excepting that portion requiring examination of our private records, and the latter is not objectionable to us. We have consistently opposed this class of legislation for some three years, believing that supply and demand should again be given a chance to function unhampered by Government boards and commissions. We deny that this is a bill to encourage the production, sale, and distribution of live stock and its products. Farmers are now marketing live stock at prices that are ruinously low, and for many of them it means bankruptcy and ruin. Constant agitation is in a measure responsible for the conditions. We demand in behalf of the producer, whose agent we are, that this constant agitation cease.

H. B. CARSON, *President.*

Here is a telegram from South Omaha, Nebr., dated May 4. [Reading:]

EVERETT C. BROWN,
President National Live Stock Exchange,
Care New Willard Hotel, Washington, D. C.:

This will authorize you to state the position of the Omaha Live Stock Exchange on so-called packer and live-stock legislation about as follows: The live-stock industry of this country as a whole is now going through the worst period in its existence. We feel that the continued agitation for Government regulation and the constant suspicion under which the marketing of live stock has been handled for the past few years is largely chargeable with the feeling of unrest throughout the country, both on the part of the producers and consumers, and that the instability of the industry at the present time is largely chargeable to this constant agitation. Suspicion cast upon any industry, constantly reiterated, can not help having a disastrous effect. Our exchange has never objected to the closest scrutiny of its methods by any duly authorized department of the Government. It does not object to such scrutiny now, be it ever so thorough. It does object to Government bureau controlling its activities for the reason that ever since the organization of our exchange in 1889, one of its main objects has been the protection of the producer, the safeguarding of his interests in every respect, and the building up of a feeling of confidence between the producer and his representatives on the public market, the commission men, members of our organization.

Our constant endeavor has been to promote a feeling of harmony and security on the part of the producer. This feeling has been shaken by constant agitation and assertion on the part of Government representatives that shippers' interests were not protected. Our hope is that Congress will do something constructive at this time, something which will reduce discontent and promote harmony and confidence in the marketing of live stock at public markets. If this may be achieved the producer will

continue the production of meat-food animals. Without a return of confidence production will be materially reduced in the very near future. Class legislation appears as the only designation for efforts of this kind. We have been and are now decidedly opposed to such legislation, believing that the best interests of the producer can be best conserved by a cessation of such legislation.

OMAHA LIVE STOCK EXCHANGE,
By WILL H. WOOD, *President.*

The next is a telegram from U. S. Yards, Indianapolis, Ind., May 5, 1921. [Reading:]

EVERETT C. BROWN.
President National Live Stock Exchange,
Willard Hotel, Washington, D. C.:

We regard Federal regulation of this economic industry as being unnecessary and class legislation. We do now and always have opposed same. For the past 35 years we have exerted and enforced regulatory measures favorable to producers and shippers of live stock, thereby insuring fair market values and proper handling at destination. Legislative provision for examining of private records of our business transactions would not be objectionable. Our opinion that constant agitation on this subject during past three years is largely responsible for enormous shrinkage in values of live stock and disastrous and ruinous effect on producers. Congress should stop this crusade against farmers and at least attempt something that might help them.

HORACE H. FLETCHER,
President Indianapolis Live Stock Exchange.

And then we have a telegram from the Union Stock Yards, Chicago, dated May 4. [Reading:]

E. C. BROWN,
President National Live Stock Exchange,
New Willard Hotel, Washington, D. C.:

The Chicago Live Stock Exchange is now and always has been opposed to Federal legislation of this economic industry as unnecessary and class legislation. The exchange has exerted regulatory measures favorable to the producer in the appraisement and sale of live stock since its existence, covering 37 years, with all of the effect of law in every particular, excepting one, that being the entire examination of private records of its members, and regulation in that particular would not be objectionable to us. We have criticized proposed legislation on many grounds. One which seems vital to us in the interests of the live-stock industry is that most bills fail to segregate the commission men, who are the direct personal representatives of the producer, from the packer. Commission men in the pursuit of their business, working for the best interests of the producer, naturally must at all times be alert to the general interest of the producer and diametrically oppose the packers and other buyers on all trading points wherein the producer is interested. In the best interests of live-stock producers Congress should not delay in disposing of this legislation, the agitation for which during the past five years has seriously menaced production and marketing. A finality in the immediate enactment of some regulatory measure or its complete abandonment is seriously needed by the animal husbandry of this country.

THE CHICAGO LIVE STOCK EXCHANGE.

The CHAIRMAN. Do you care to comment on any of those, or have you any suggestions that you care to make?

Mr. BOYD. Well, nothing except perhaps to say that for the past 10 years I have been with one of the largest live-stock moving railroads in the West, in the live-stock department. I have come in close personal contact with the great majority of our shippers. And I have heard most of their complaints. I have been in constant contact with the commission men. Have been on the markets. In starting in there I realized that I should learn the commission business, the way it was conducted. I know the stockyards game. I have put in a great deal of time on the Kansas City market, the second largest in the world and I know what the practices and customs have been there.

We have had to sell a great many cars of cattle, and I have supervised the selling of those cattle, and I would come in contact with Denver, Wichita, Oklahoma City, Fort Worth, and considerably at Chicago, and I think I know the live-stock men's grievances west of the Mississippi River and east of Arizona. Arizona and east. I have heard very few complaints about the commission man in that number of years. The commission man has been the man that I have had to fight. He has always championed the cause of the shipper. So that if there is anything I have gained through my study of this proposition with reference to competition as I have observed it on the markets, or the attitude and actions of the commission men, I should be very glad to relate them.

Mr. CLAGUE. Did you ever have any experience in the St. Paul markets?

Mr. BOYD. No, sir.

Mr. CLAGUE. Or the South St. Paul?

Mr. BOYD. No, sir; I have not.

Mr. CLAGUE. Now you say you have come in contact with the shippers. Don't you know as a matter of fact that the shippers had a great many grievances in those yards up to at least a couple of years ago?

Mr. BOYD. It was my duty to look over the grievances of the live-stock shippers, and I do know that they have had troubles in the stockyards; yes, sir. They have them quite frequently. If an animal was lost, either the carrier has lost it, the commission men, or the stockyards, and usually we, as carriers, had to find out who did lose it.

Mr. CLAGUE. Well, I am not speaking especially of that. I am speaking of the situation in South St. Paul, from your actual experience in shipping there.

Mr. BOYD. Mr. Rogers is here from that market, and I am sure he can tell you all about it. I would not want to venture an estimation about something I have not observed; I would not want to make a statement on something that I have not seen.

Mr. CLAGUE. The point I am getting at is this: Until the State put in State regulations there, there were many, many grievances that we never could get any relief from, and until the State put in regulations there, which was two years ago, we did not get relief through the stock exchange.

Mr. BOYD. I heard Mr. Rogers deny that statement to-day. He will deny it to you again.

Mr. CLAGUE. Well, we will be glad to hear from him.

Mr. GERNERD. I would like to put a few questions to some one in the packing business. Is there any one right here now that I can put a question to?

The CHAIRMAN. There will be pretty soon.

Mr. TINCHER. I understand Mr. Wilson is going to make a statement. He is supposed to know a considerable amount about this business.

Mr. GERNERD. There are a few questions that I would like to put to him when he comes on.

The CHAIRMAN. Are there any other questions? If not, we will hear the next witness.

Mr. LIGHTFOOT. Mr. Hormel, of Austin, Minn.

STATEMENT OF JAY C. HORMEL, VICE PRESIDENT OF GEORGE A. HORMEL & CO., AUSTIN, MINN.

Mr. HORMEL. I had a very carefully prepared statement here that I was going to read, but after Mr. Tincher's inference this morning that these statements were not always prepared by the people who read them, I think I will pass up that statement and answer questions instead.

For the information of the members of the committee, that I have not appeared before previously, I will state that I am vice president of George A. Hormel & Co., of Austin, Minn. We do a business of about $30,000,000 a year. Last year we killed more than 530,000 hogs, 20,000 cattle, and 10,000 calves. We do an interstate business reaching pretty nearly every State in the Union, and a foreign business through our export corporation, which the independent packers, a number of them, formed under the Webb Act.

Now, if any of the members of the committee wish to ask me any questions, I will be glad to answer them.

The CHAIRMAN. You might state something about the location of the plant, something of the competition, and also about the private-car proposition. Your plant is located in Minnesota?

Mr. HORMEL. Yes, sir, Mr. Chairman; our plant is located in Austin, Minn.

The CHAIRMAN. That is how far from St. Paul?

Mr. HORMEL. A hundred miles south from St. Paul, and very near the Iowa State line.

The CHAIRMAN. You come in competition with the Big Five?

Mr. HORMEL. We do; yes, sir.

The CHAIRMAN. Where is the nearest plant?

Mr. HORMEL. The nearest plant is at Albert Lea, which is 22 miles west of us.

The CHAIRMAN. Where is the next plant, independent plant; the one nearest you?

Mr. HORMEL. Jacob B. Decker & Sons, at Mason City, Iowa.

The CHAIRMAN. How far is that from you?

Mr. HORMEL. Fifty-two miles, I believe. No; it is 48 miles by rail to Mason City, Iowa.

The CHAIRMAN. Now, what has been your experience in competition? Have the so-called Big Five packers tried to put you out of business? It has been quite frequently alleged here that you suffer by reason of their plants encroaching upon your territory.

Mr. HORMEL. As regards live stock, or as regards selling the product, Mr. Chairman?

The CHAIRMAN. Live stock. I have heard it stated a number of times that Wilson, being west of you at Albert Lea 22 miles, has cut off your supply and that you were forced to go to St. Paul for your supply. It has been stated that when you have gone to St. Paul, and when found that you were there, or reported that "Hormel is in town," the price has gone up. Have you heard that statement?

Mr. HORMEL. Yes.

The CHAIRMAN. Well, Mr. Hormel, the committee would be interested in hearing what you have to say about that.

Mr. HORMEL. As regards Wilson & Co., I will say that Wilson & Co. have cut us off from some of our supply of hogs. They

being 25 miles distant from us, get hogs there that I suppose would come to us if they were not there. However, I hope that Mr. Wilson won't scold his stock buyers from this evidence, but we do draw hogs from Albert Lea and from the territory beyond them. They have not cut off our supply in any way that we can put our finger on or say what it amounts to. There is no question but that the fact is that their very existence there means that they get some hogs that would otherwise come to us. However, that same statement is true of packers located at Sioux Falls, probably; particularly at Sioux Falls, and also true at Sioux City.

The CHAIRMAN. But do they get them by employing unfair methods or unfair competition?

Mr. HORMEL. No, sir.

The CHAIRMAN. That is the question.

Mr. HORMEL. No, sir.

The CHAIRMAN. Do they get any hogs at Albert Lea that used to come to you that go through Austin to Albert Lea?

Mr. HORMEL. Why, I have heard of several cars occasionally. I think they are not successful usually in bringing hogs through Austin. We have a reputation of 30 years' standing with these farmers and shippers there, and I don't believe Wilson & Co. have had much success in breaking through Austin with their hogs.

The CHAIRMAN. Do they run up the prices in your territory?

Mr. HORMEL. I wouldn't say so as a general thing. It is perhaps true that our hogs cost us a little more due to their being there, because at times perhaps we would both be anxious to kill, and be bidding against one another a little more actively than normally and thereby run it up a few cents. But I don't believe that would be true to any great axtent.

Mr. KINCHELOE. Where do you get most of your hogs?

Mr. HORMEL. We get most of our hogs locally; that is, perhaps, within a 50-mile radius.

Mr. KINCHELOE. What stockyards do you buy most of the animals from, Mr. Hormel?

Mr. HORMEL. I haven't figured it up. We pretty well distribute our purchases between St. Paul and Sioux City.

Mr. KINCHELOE. Do you find that there is competition between the packers in the market at South St. Paul?

Mr. HORMEL. I don't know, sir. I was never on the South St. Paul market, in the South St. Paul yard. I should imagine there is.

Mr. KINCHELOE. Your firm buys there, doesn't it?

Mr. HORMEL. Yes.

Mr. KINCHELOE. Mr. Wells stated that it was the common thing that when your firm came in to buy it was reported around that "Hormel is in town," and the price would be increased.

Mr. HORMEL. Well, I am very much disappointed in hearing that, because I didn't know that we had been beat so bad all these years. Here is the situation. A week ago last Monday morning we had 7,500 hogs in Austin. I forget the exact number on the St. Paul market that morning, but not a great many more than that. We were killing at that time at the rate of 2,000 every second day; in other words, it was going to keep us busy all week killing the hogs we had on hand. Now what brought those hogs in we don't know. They just came. On another day we may find ourselves without

hogs, and we need to go and get hogs to keep our plant in operation. When that day comes our live-stock department telephones at 7 o'clock or 7.15 in the morning to Omaha, Sioux City, and St. Paul, and they ask our representatives there, commission men at each of those points, what their prices are for hogs on that day.

Well, now, it was stated that we usually buy 200-pound hogs in St. Paul. That is usually true, at St. Paul, for the reason that they do sort their hogs, and there is no reason at all why we should take a heterogeneous lot of hogs which may or may not go into products that we want to deliver to our trade, when we can get these 200 pounders. So we ask South St. Paul what he wants for his 200 pounders. In the meantime we know that at Sioux City the hogs cost a little better than St. Paul, and we know that by buying from Sioux City we are on the same basis as by buying out of St. Paul. And then we ask Omaha what they want for their hogs. Then the market that is the cheapest gets the order at the price that was named to us, before we made any bargain at all. Now, then if he can not fill that order at our price he must not fill it. For example, I have seen it happen many times when we have ordered 2,000 hogs out of St. Paul that we got only 500, because we found that he couldn't get them for the price that we instructed him to buy at.

Now, then, if we buy the hogs there at a certain price, and get 2,000 hogs, say, out of St. Paul that morning, why if the market does go up 25 or 40 cents, so that Mr. Wells can tell by looking at his price sheet that we have been in there, I am afraid that it is Swift and Armour that pay that price, and not us.

Mr. TINCHER. Are you worried about that, do you say?

Mr. HORMEL. Sir?

Mr. TINCHER. Well, you are not really worried about that?

Mr. HORMEL. Well, I know we don't pay it, so I am not worrying. I know that we buy at a price that is set before we ever make our bargain.

Mr. TINCHER. He said the mere fact that you came on there disturbed them to such an extent that it raised the market 25 to 40 cents.

Mr. HORMEL. Well, I happened to be here when Mr. Wells was on the stand, so I wired to Austin to find out what the comparative receipts were at Austin and St. Paul during the months of March and April, and they gave me these figures:

During March: Austin, 2,005 hogs a day; at St. Paul, 8,334 hogs a day.

During April: At Austin, 1,458 hogs a day; at St. Paul, 6,022 hogs a day.

Now, what I make from these figures is this. If, for any reason, we find that we have to go to St. Paul for a single day's killing, which during March averaged 2,005 hogs a day, we are taking from St. Paul very nearly 25 per cent of their total visible supply. Now, suppose that there are 8,000 hogs in the yard that morning, and suppose that Swift and Armour, each of them, have felt that their hogs killed that day should be, say, 3,500 hogs, or a total of 7,000 between them, leaving 1,334 to be distributed out among such outside buyers, shippers, speculators, and feeders as might be buying those hogs. If out of the 8,000 we take 2,000, they only have 3,000 left, apiece, instead of 3,500 as they want. Now, I should imagine that they

would get awfully busy, each one of them, the minute they realized that a big lot of the hogs has been taken out; I imagine that each one of them gets awfully busy trying to get the 3,500 that he wanted in the first place, each one realizing that if he doesn't get busy and buy them up quick the other will get the 3,500, and he will only have 2,500.

Mr. KINCHELOE. Do you mean by that that the market price will thereby increase?

Mr. HORMEL. That is what we always believed, yes, sir. Now, if that theory of ours is correct, if that is what happens up there, that explains your 25 to 40 cent raise in price.

But here is what got me about Mr. Wells's statement. Our live-stock department is pretty well organized. My uncle is in charge of it, and he is a pretty smart man, and he makes a study of the live-stock market, and he can not tell to-day at the close of the market what the market is going to be to-morrow, and he can not tell this morning at the opening of the market what it is going to do before it closes, and how in the world Mr. Wells has got it figured out to tell just where that market is going so that he can tell by looking at the figures afterwards that it is 25 or 40 cents higher than it would have been, I can't tell.

Mr. KINCHELOE. It is easy to figure that out if the market increased that much.

Mr. HORMEL. It is easy to see if the market increases that much, but how he knows that it increased 25 to 40 cents more than it would have gone, I don't know, I can't figure.

The CHAIRMAN. It has been stated that it is common talk in the country that when a man ships his hogs there he says, "We want to be there the day that Hormel buys."

Mr. HORMEL. That is very natural. I don't deny that we must raise the market when we come in.

The CHAIRMAN. That is the point exactly.

Mr. HORMEL. It is the old law of supply and demand. We increase the demand, but we don't increase the supply.

Mr. TINCHER. As I understand, you are favorable to reasonable, constructive legislation upon this whole subject?

Mr. HORMEL. Yes; I am, but on this basis, Mr. Tincher. I don't believe that you can have reasonable and favorable legislation on the subject unless you differentiate between the packer and the man who is in some other business. I don't believe that it is fair when these laws are what we have been calling here class legislation. I think there are other ways of approach that will be equally effective and less potentially harmful.

Mr. TINCHER. It won't be class legislation, it will be general legislation for everyone. You won't pick out any packer and legislate against him, but you will legislate on the whole subject.

Mr. HORMEL. Now there have been four main reasons brought out here as to why there should be some such legislation as is being considered, and I would like to say something on those four reasons.

In considering the lack of confidence—that was one of the things that was argued by—I believe it was you, Mr. Tincher?

Mr. TINCHER. No.

Mr. HORMEL. In considering the lack of confidence to-day between the producer and the packer and between the consuming public and the packer, there is no question but that there exists in the mind

of the public a certain suspicion toward the packers in general and toward the practices they are following. The ill resulting from this suspicion is becoming more and more marked.

Our firm has never been accused, either directly or indirectly, to our knowledge, of having engaged in any unfair or wrongful practices. However, the newspapers have been full of the tendency on the part of our congressional bodies to legislate against the packers, and have, therefore, set up in the minds of the public an idea that after all the packer should be regulated and has not yet been given a clean bill of health.

The result of this attitude on the part of the public reaches far into our business. The competition in selling meats is actually so close that the difference in price is, as a general proposition, not sufficient to warrant any dealer trading with any particular packer. He is guided only by personal preference or by the quality of service which the packer is able to render. If this body can contrive a means whereby the small packer will be given a clean bill of health, and whereby the public will be given the idea that the small packer at least is honest and not rightfully a subject for suspicion, you will have taken bigger steps to build up the business of the small packer than anything else I can conceive.

And I suppose the big packers will tell you that a definite settlement of this question will be more or less of a blessing, too. The suspicion of the thing is what is hurting us now.

Now, it has been argued in some quarters that legislation should be passed that will guarantee to the public that the packer will do right because of the supervision over him, but in my estimation such legislation will tend rather to make the public feel that if the packer requires such close supervision, it is because there is something very questionable about his business methods. In this way, broad legislation covering all the packers would be of very distinct harm to the packers who so far, in spite of the insinuations which are freely circulated in public opinion, have been able to maintain something approaching the confidence of their customers and of the live-stock man and shippers who furnish them with their raw materials.

Now, that is on the first point that has been brought out, the lack of confidence.

The CHAIRMAN. One moment, Mr. Hormel. There is a call for a vote in the House. We will have to suspend.

Mr. KINCHELOE. I think these gentlemen ought to be heard, Mr. Chairman, and I suggest that we either come back and continue the hearing or adjourn until this evening.

The CHAIRMAN. Very well, we will adjourn until 7 o'clock, and we will give you gentlemen an opportunity then of being heard.

Without objection the committee will stand recessed until 7 o'clock.

(Thereupon, at 4.45 o'clock p. m., May 5, 1921, the committee adjourned until 7 o'clock p. m. of the same day.)

NIGHT SESSION.

The committee resumed at 7 o'clock p. m., pursuant to recess, Hon. Gilbert N. Haugen (chairman), presiding.

The CHAIRMAN. The committee will come to order and Mr. Hormel will resume his statement.

STATEMENT OF MR. JAY C. HORMEL, VICE PRESIDENT HORMEL PACKING CO., AUSTIN, MINN.—Resumed.

Mr. HORMEL. I do not know how you gentlemen wish me to proceed. Shall I make ny statement, continue my statement, or answer questions?

The CHAIRMAN. You may proceed in your own way, in whatever manner you like.

Mr. HORMEL. Well, I do not know just how much of my statement as I had intended to make it I have really made, as there have been so many interruptions. However, in order to get it in more concise form I will repeat that I am vice president of George A. Hormel & Co., a concern which was established by my father in 1891, incorporated 10 years later, and from the smallest beginning has steadily developed until it is to-day the largest institution in our part of the State.

Last year we transacted a total gross business of more than $30,000,000, reaching almost every part of the United States, and, through our export connections, several foreign countries. We killed more than 530,000 hogs, 20,000 cattle, and 10,000 calves.

Although this volume of business is sufficient to make as in reality the leading industry of one of the notable agricultural districts of America, we are distinctly what may be classed as a "small packer." It is our desire at the outset that the committee may clearly differentiate between the large and the small packer. We have our own business, run with our own brains, and financed by our own money. We are known as one of the small packers, and may rightly be called independent packers because our ownership is in nowise linked with other packers nor with any outside financial interest.

Ninety-seven per cent of our stock is owned by residents of Mower County, my father holding the majority of the stock, the officers of the concern being the only other large holders of common stock and the residents of Mower County holding the bulk of preferred stock in comparatively small blocks.

If wrongs have been committed by packers, we are not here in defense of those wrongs. If ill practice has been followed, we do not condone it. We believe that the proposed legislation would be definitely injurious to us and to your farmer constituents who are dependent upon the market we create in order to profitably sell their live stock.

We, George A. Hormel & Co., who have conducted our business since its inception, always with a conscience, are asking you not to make any move which will injure us and are asking you not to class us with such of the packers as may have committed wrong practices, or other acts which would make legislation necessary or which would justify the serious contemplation by this body of legislation to regulate all packers.

On analyzing the viewpoints of the proponents of these bills, we find that there are, in the main, four basic arguments used:

First. There exists a lack of confidence and coordination between the live-stock man and the packer which should be overcome, and there should be a feeling on the part of the live-stock man that he has someone to whom he may turn to gain redress for any wrongs he may suffer.

Second. There is considered to be a potential monopoly which should be avoided.

Third. There seems to be a universal feeling that the stockyards should be regulated, and that present stockyard practices are not altogether fair to the producer.

Fourth. Some proponents of the bill feel that in order to maintain the autonomy of the small packer, there must be some sort of a court of appeals to which the small packer can go and informally present any grievances which he may have.

In considering the lack of confidence to-day between the producer and the packer, and between the consuming public and the packer, there is no question but that there exists in the minds of the public a certain suspicion toward packers in general and toward the practices they are following. The ill resulting from this suspicion is becoming more and more marked.

Our firm has never been accused, either directly or indirectly, to our knowledge, of having engaged in any unfair or wrongful practices. However, the newspapers have been full of the tendency on the part of our congressional bodies to legislate against the packers, and have, therefore, set up in the minds of the public an idea that after all the packer should be regulated and has not yet been given a clean bill of health.

The result of this attitude on the part of the public reaches far into our business. The competition in selling meats is actually so close that the difference in price is, as a general proposition, not sufficient to warrant any dealer trading with any particular packer. He is guided only by personal preference or by the quality of service which the packer is able to render. If this body can contrive a means whereby the small packer will be given a clean bill of health, and whereby the public will be given the idea that the small packer at least is honest and not rightfully a subject of suspicion, you will have taken bigger steps to build up the business of the small packer than anything else I can conceive.

The big packers will also undoubtedly tell you that a definite settlement of this question of virtue would be a blessing.

It has been argued in some quarters that legislation should be passed that will guarantee to the public that the packer will do right because of the supervision over him, but in my estimation such legislation will tend rather to make the public feel that if the packer requires such close supervision, it is because there is something very questionable about his business methods. In this way, broad legislation covering all the packers would be of very distinct harm to the packers who so far, in spite of the insinuations which are freely circulating in public opinion, have been able to maintain something approaching the confidence of their customers and of the live-stock man and shippers, who furnish them with their raw materials.

The second point which has seemed to particularly impress itself as worthy of consideration is the claim that there exists in the packing industry a potential monopoly, and the idea seems to prevail that any of these bills, if passed, would prevent consummation of such a monopoly.

In this regard I declare myself as an advocate of direct action. If there is a danger of monopoly, let us directly attack the sources from which such monopoly is liable to grow. Last year George A.

Hormel & Co. slaughtered six-tenths of 1 per cent of the live stock slaughtered in the United States. It would require many years of most favorable and unusual growth for any of the small packers to even approach a condition whereby even a combination of them might be considered to have monopolistic tendencies. Indeed, for Congress to enact legislation to prevent them from becoming monopolistic would be almost an absurdity.

The third big question in regard to packer legislation is how to best handle the stockyards. In fact, the supporters of this bill are almost entirely men interested in the stockyards, and so far as I know a very negligible proportion of the support has emanated from sources related to the distributing end of the business. You have heard Mr. Wells, on Monday, tell you that normally there was no competition between the big packers in the South St. Paul yards in the purchase of live stock. But the fact is that there is competition every day in the selling markets between the big and the small packer, for I do not believe that there is a single market in the United States, nor very many abroad, where the selling agencies of the big packers and the small packers are not present in such a way that big and small, both among themselves and with each other, must be in most active competition in order to get enough business to keep them alive.

Therefore, no matter what is deduced as to the truth of the statements you have heard made as regards competitive conditions in the stockyards, I maintain that such lack of competition is in no case present in our wholesale selling market. The very intensity of the competition in the wholesale markets is of itself ample guaranty of fair practice in them.

Now, then, in view of the experience in the State of Minnesota, which is claimed to be so successful in restoring the confidence of the shipper in the markets to which he is forced to go with his stock, and contemplating the open competition which exists in the wholesale meat markets, it would seem a logical conclusion that if any legislation whatever is necessary it would be legislation to govern the practices in the stockyards rather than legislation governing the packers themselves.

The fourth argument which I have heard brought out is that for the security of the small packer there should be some court of appeal to which the small operator could informally go when he felt that he was being subjected to unfair treatment.

In this connection, gentlemen, I wish to point out to you that the small packer is a fighter. He is resourceful. He feels pretty well able to take care of himself through the agencies already provided by law.

For example, I understand that paragraph 5, chapter 311, of the Federal trade act of September 26, 1914, contains these words:

> Unfair methods of competition in commerce are hereby declared unlawful.

To my mind that may be made to cover anything which it is feasible to include in any bill you might propose. True, it is not specific, but you have an efficient system of courts to which you may turn for specific decisions. It would seem to me that any evidence sufficient to warrant action by the Secretary of Agriculture under Mr. Haugen's bill, or by the Federal Trade Commission under Mr. Anderson's bill, or by the Federal Live Stock Commission proposed by Mr. Mc-

Laughlin, would likewise constitute sufficient evidence for prosecution in court under the provisions of the Federal trade act. I believe that under the provisions of this act we would be able to secure an injunction stopping and prohibiting any acts, by any packer, unfair to us.

My intimations so far have been that the need does not actually exist for legislation in the form in which the present bills are suggested. I not only wish to conclude that legislation to regulate the packer is unnecessary, but that it would finally fail to accomplish the things expected of it and would, indeed, react to accentuate the very conditions which I believe it is desired to avoid.

I have said that in my mind there would be attached to the packing industry in general the stigma of suspicion more defined and more pronounced than it has been in the past, and every observer of the industry must realize that the odium of suspicion of the packing industry has been anything but helpful to it. So far this suspicion has been more largely directed at the larger companies, who, regardless of the degree in which they have merited it, are by virtue of their size better able to withstand it.

This, however, is but one of the many disadvantages that the passage of any of these bills would inflict upon the small packer. It must be remembered that the very size of these larger packing companies constitutes in itself a force and momentum which is sufficient to carry them over the rough places which would constitute real obstacles to the smaller operators. Their very greatness is a factor in helping them to accomplish the various objects incident to the prosecution of their business. The powerful organizations which they have been able to build up to carefully watch over the endless ramifications and details of their business constitute an overhead which the smaller operator can not afford to maintain. Our advantages in competing with them must come from other sources. We have such advantages, which I could enumerate to you, if time permitted. But one of the greatest of these is the fact that the big packer and the small packer actually are in a different category, the one from the other. If you fear monopoly, a good thing to prevent it is not to pass some legislation saying all packers are alike and should be looked upon alike, but rather pass some legislation which would accentuate the differentiation between the big and the small.

Their very size makes it dangerous to pass a bill affecting the big and the small packers alike. A simple, and perhaps negligible, example will serve to illustrate this point. Under the Pure Food Act we are required to comply with certain regulations in the making of containers of food products. On the item of sliced bacon, for instance, it is necessary for us to incur the expense of an artist to prepare the original sketches which must be submitted to the Department of Agriculture at Washington. We must purchase plates. The total of these and other incidental expenses in the preparation of such a carton for our sliced bacon must be prorated over a comparatively small volume of business. In the case of a big packer, the same expense will do the ground work for the preparation of cartons to handle many times our volume.

A series of expenditures such as this, prorated by the small packer against a small volume and by the big packer against a big volume of business, constitutes a distinct disadvantage to the small operator.

It is bound to happen with the most carefully conceived legislation. There will arise first one thing and then another; always something new and unexpected, perhaps small in itself, but certainly, gentlemen, the aggregate is large and acts as a decided discrimination against the one doing the smaller volume of business.

The packing business is a decidedly precarious business. There are no calipers to measure a ham, no gauge has been evolved to measure the size of a pork loin. Accuracy is dependent entirely upon the human element and it is practically impossible to get a close check on the workmanship except as a matter of judgment. In the curing departments, if a ham is too mild, it will sour in the smokehouse; if it is too salt, it is not a salable article. Exactness and precision must be maintained, and yet absolute standards do not exist. Minor wastes so small that they may be likened to the constant dropping of water upon stone will likewise undermine the strongest institutions.

All this the packers normally have to face, but when any new condition presents itself, be it legislative or economic, the little packer suffers worst. Right to-day there are three well-conducted packing houses in the State of Iowa which are on the verge of having to shut their doors because the general conditions now existing have hit the little fellow hardest.

To be able to tell you specifically all the ills that might result from the present proposed bills would require a foresight and an imagination much greater than mine. But by analogy we know that whatever limitations or regulations may be brought upon the industry will affect the little fellow more than the big fellow, and in many instances will affect the little fellow where it touches the big one not at all.

In concusion, let me say this: We have a business comparatively small, in the State of Minnesota—an agricultural State. That business is virtually owned by my father. His business has grown from a butcher shop to what, under the provisions of this proposed legislation, is a packing industry.

There is no direct nor indirect connection between us and the so-called big packers. There is no fundamental difference whatsoever between my business and that of any other jobber or manufacturer of any product made in the United States. No legislation is contemplated against men engaged in other businesses because statutes have already been passed that cover their business, and ours too, if that business be in violation of the present laws against monopoly. The effect of the proposed legislation is to condemn us before the fact—to condemn us in advance of any improper or illegal act. We resent this, because it is unfair and unjust.

At the time I was in college there came about the first of these packer investigations. By the very tone of them, my father foresaw the hardship which must necessarily result upon the packing industry as a whole. He did everything he could to encourage me to abandon my idea of following in his footsteps and to turn me to some profession or some other line of business.

If the attitude of the legislators of this country now is and will continue to be that the packer is bad, and must be specifically controlled and regulated by law, that the business is not honorable and is not imbued with the conscience which business men must have if

they are to continue to be, as they have been in the past, the backbone of our Nation; if to be a packer is to be looked upon with suspicion, I might well believe that my father was right and that even now, while I am young enough to do so, I had better turn to some other industry if I wish a satisfactory career.

Those things, however, I know are farthest from your thoughts. You simply have not sufficiently considered the effect on the public of legislative disapproval of our business and of its methods. But you can not blame me, as one directly affected, when I say that I resent the very fact that this committee is seriously contemplating specific legislation which will include in its intendment a concern like ours, which has a clean record in court and out, among the farmers who supply us with our live stock, and among the dealers who buy our meats from us.

If there actually exist in the packing industry individual concerns whose actions should be censored, or if there are companies who have committed wrongs against our economic and social structure, I can only beg you to find some means to ferret out those individuals, punish them where that is necessary, regulate them where that is necessary, but leave the balance of the industry with a clean bill of health, with legislative approval, instead of legislative suspicion, and give us a free rein to go ahead and build up our part in the democratic and truly American economic structure on which this Nation is dependent.

Mr. TEN EYCK. After recess I believe you were saying something about the difficulty of passing legislation. What was that?

Mr. HORMEL. Just as we broke up the point I was trying to make was this, that it is exceedingly difficult to pass any legislation here that would be just and fair to everybody concerned by reason of its effect on the public mind, and the danger of your passing legislation which, if by inference if nothing else, puts the packer under suspicion and thereby makes the public feel that they have got to be careful in dealing with him.

Mr. MCLAUGHLIN of Nebraska. Do you think any reasonably restrictive legislation that the Congress could pass to exercise supervision over the packing industry could cause the public mind to be any more restless and distrustful than is the case now and has been for the past three years? It was the restless condition of the public mind, or the suspicion lurking in the public mind, that started the whole thing. Congress would never have thought of it but for the demand on the part of the people.

Mr. HORMEL. Perhaps not, but——

Mr. MCLAUGHLIN of Nebraska (continuing). What do you think would be the effect on the public after all the agitation that has been had and after all the testimony they have sent to us, and after having this matter open for years, if the Congress were to simply now lie down and say: "We will not do anything." Suppose we were to dismiss the whole subject?

Mr. HORMEL. I think the Congress would be making a serious mistake if it did that.

Mr. MCLAUGHLIN of Nebraska. So do I.

Mr. HORMEL. But I want to qualify that answer in this way: Although the Congress should do something, I do not believe that you should do something that relates only to the packer. That is to

say, any crime which the packer may commit is still a crime if committed by anyone in some other industry. Therefore let us make our law read so that the crime or crimes that may be defined are not simply a crime or crimes when committed in the packing industry but are also a crime or crimes when committed in any other industry.

Mr. McLAUGHLIN of Nebraska. You do not believe it would be possible for the Congress to write a supervisory law in a bill of this kind that would permit of the exercise of supervision over all the different business interests of the country, do you?

Mr. HORMEL. Well, now, Mr. McLaughlin, I doubt very much if it is possible for the Congress to write into one bill provisions which will be definitely prohibitory to the packing industry. To illustrate that let us consider it. Just what are the wrongs we want to remedy?

Mr. McLAUGHLIN of Nebraska. How was that?

Mr. HORMEL. Just what are the wrongs we want to remedy?

Mr. McLAUGHLIN of Nebraska. Of course, you would not expect me to enter into an extended discussion of that now. That is a matter that is in the hearings and in the bill.

Mr. HORMEL. What I meant was this: Perhaps we may consider some one specific thing that the packer might do, and then consider whether or not it would be possible to write into a bill here any more definitely than it is already written into other legislation, a prohibition against it; or any better than it might be written as an amendment to existing legislation.

Mr. TINCHER. I will suggest one thing which is the practice I understand now and possibly the next gentleman, who will follow you, will go into more completely than you can; and it ought to be stopped. I do not think it could be stopped by a direct provision of law. I do not think it could be stopped except by supervision. A representative of a commission house at St. Paul says that in a certain case an independent packer said he wanted to put in a bid on some stock held by some commission man. He was told by the commission man that his bid could not be considered until Swift & Co.'s buyer had a chance to purchase; that if anybody else would be allowed to buy first Swift & Co.'s man would not buy from the commission man.

Mr. HORMEL. Right on that point let me say that to my mind the third big question in regard to packer legislation is how to best handle the stockyards. In fact, the supporters of this bill are almost entirely men interested in the stockyards, and so far as I know a very negligible proportion of the support has emanated from sources related to the distributing end of the business. You heard Mr. Wells on Monday tell you that normally there was no competition between the big packers in the South St. Paul yards in the purchase of livestock. But the fact is that there is competition every day in the selling markets between the big and the small packers; and I do not believe that there is a single market in the United States, nor very many abroad, where the selling agencies of the big packers and the small packers are not present in such a way that big and small, both among themselves and with each other, must be in most active competition in order to get enough business to keep them alive.

Therefore, no matter what is deduced as to the truth of the statements you have heard made as regards competitive conditions in the stockyards, I maintain that such lack of competition is in no case present in our wholesale selling market. The very intensity of the competition in the wholesale markets is of itself ample guaranty of fair practice in them. Now, then, in view of the experience in the State of Minnesota, which is claimed to be so successful in restoring the confidence of the shipper in the markets to which he is forced to go with his stock, and contemplating the open competition which exists in the wholesale meat markets, it would seem a logical conclusion that if any legislation whatever is necessary it would be legislation to govern the practices in the stockyards rather than legislation governing the packers themselves.

Mr. TINCHER. Well, wait a minute right there. I have spoken about a charge made by a commission company against Swift & Co., which is certainly not good business, is an unfair practice, in a competitive open market, whereby Swift & Co., big as they are, in South St. Paul says to a commission company: If you let a certain independent packer bid on your stuff before I get a chance I will not buy any more. He says to the independent packer: I will not let you bid until after Swift & Co. bids because if I do they will not buy. Is that a practice that ought to be forbidden?

Mr. HORMEL. Absolutely.

Mr. TINCHER. Suppose then he goes ahead and says further: Now, Swift & Co. have bid, but I will not entertain a bid from you for less than 25 cents more than your bid. I will not entertain a bid for 20 cents a hundred pounds more, because they will not trade with me if I sell to you for an advance of 20 cents over your bid. They will let me sell to you for 25 cents more than their bid, but I can not have their trade if I sell to you for less than 25 cents more than their bid. Is that an evil practice that ought to be corrected?

Mr. HORMEL. Yes, sir; if that exists it certainly is. And I am willing to grant that the stockyards should be in some way regulated.

Mr. TINCHER. Well, hold on. Who is the cause of that? That poor devil of a commission man who is selling cattle up there for so much a car can not afford to alienate Swift & Co. They buy 34 per cent of their total cattle every year that are shipped there. The poor commission man can not afford to turn them down. Besides, it is not only Swift & Co., but according to the testimony here in the Federal Trade Commission's report it is true of all the big packers. In St. Paul it is Swift & Co. and Armour, but at some other place it is Swift & Co. and some or all of the others.

Mr. HORMEL. That is all very well, but neither Swift & Co. nor Armour & Co. committed that wrong practice, if it was committed, in the conduct of the packing business. They did it, if at all, in the purchase of live stock in stockyards, at a place where they must be purchased in a market.

Mr. TINCHER. But who was the man who did this act working for?

Mr. HORMEL. I do not know.

Mr. CREIGH. If I may butt in, Mr. Tincher, in order to attempt to clear that up, let me say that Mr. Hormel speaks of the difference between the conduct of the packing industry and the conduct of the stockyards; and there he is referring to the conduct of the representatives in the stockyards.

Mr. TINCHER. Well, that is a practice of the packers.

Mr. HORMEL. But he must go to the stockyards to do it. If you can so regulate the stockyards so that every man will have a fair opportunity to sell and every man a fair opportunity to buy, if there is an evil there, I will be in accord with such legislation.

Mr. TINCHER. I think we have got to control the whole industry to get at that. And I want to say further that I do not think any packer who wants to do the right thing ought to object to any law that will prohibit a packer from engaging in that sort of practice.

Mr. CREIGH. Well, now, I am glad you are getting down to specific cases.

Mr. TINCHER. Yes, and I have a lot of them.

Mr. CREIGH. Let me see if I can state it in a sentence. The alleged grievance is said to have occurred in the South St. Paul stockyards. You will have to take this as second or third removed hearsay, but we will pass that point by for a minute. It is stated in that report of the Federal Trade Commission that one of Swift & Co.'s buyers said to a commission man that unless Swift was able to put in the first bid on the live stock he wanted he would not buy any more from that commission man. Is that it?

Mr. TINCHER. Yes; that is it and even more.

Mr. CREIGH. Well, let me apply that to the position taken by the packers. No one of the bills here states as to whether or not that is an unfair practice. But if you will put in an order to cease and desist from that what would you have—what would the order be?

Mr. TINCHER. It would be an order to Swift & Co. to cease and desist from discriminating among commission men, and using such influences in the yards, to cease and desist from saying they would not purchase live stock from him.

And while on this point I want to say that my personal opinion is that that is one of the real evils of the trade. I know myself in the shipment of stock that I have felt there was no effort made on the part of my commission man to make a sale, and I have quarreled with more than one commission man because I thought he would not make the proper effort to get a proper bid from the packers' representatives. And I have been told by commission men: "I can not destroy my whole business here. I understand this thing, and I am getting all that is being bid on this stock; every dollar for it." I want to say that if the packers by reason of the enormous volume of their trade on the market are absolutely able to dictate to the commission men as to how they will sell my stuff, it is an evil that ought to be corrected.

Mr. CREIGH. Let me continue there for a moment, if I may, in reference to what order would be issued. I do not want you to get the idea I am trying to justify any evil practice. As I told you this afternoon, I am in favor of machinery right on the spot that will correct any such thing that may exist. But I am simply trying to call attention to the machinery provided in any one of these bills, that a commission here in Washington, after a long hearing, after the filing of a complaint and the taking of testimony, and this and that other delay, will take action, which will mean months before any such isolated case will be corrected. Then you come to the order proposition, and you say you will tell, say, Swift & Co., to stop doing this

or that, or saying this or that to the commission man. That is not machinery provided right on the spot to meet each individual case, but is a general matter by which a complaint must be filed and a hearing had and much delay result.

Mr. TINCHER. Your idea would be than that the rules of the exchange ought to prohibit any such practice?

Mr. CREIGH. That is fine. Yes, let us put it in the rules of the exchange and let the exchange regulate the thing and have the supervision in the exchange. That is the direct method that we suggest.

Mr. HORMEL. May I ask you a question that is probably a little out of the angle we are working on now, but——

The CHAIRMAN (interposing). There is nothing to hinder the Department of Agriculture from having a man at the stockyards to adjust all these things. That man would go to the packers and say that these things should be stopped.

Mr. CREIGH. What the packer fears in all these bills is that with the elasticity of the language employed we will have somebody in Washington who is regulating all the business, through a thousand and one subordinates. Let us put it back in the stockyards.

The CHAIRMAN. The head would be in Washington, but Washington could not directly handle all those things; the department would employ some one capable of settling these matters.

Mr. CREIGH. Mr. Chairman, just let me illustrate that point again: Here is the meat inspection act, and none of us are complaining about it, and the bulk of the time it is working perfectly fine. But to-day in some packing house some inspector may come along and say: Here is a bunch of cattle that are tubercular. He puts a tag on $10,000 worth of cattle. The packer may want to take an appeal from his decision. If they have to go through the routine of that the stuff would rot on the rail before they would get a decision.

Mr. TINCHER. How do they do that now?

Mr. CREIGH. They do that now in that manner. The packers suffer thousands of dollars of losses even where they think they have a perfectly good case if it could be promptly settled.

Mr. TINCHER. Can't you tell when cattle are tubercular?

Mr. CREIGH. I am only using that as an illustration. Yes, you can tell; it is a matter of getting down to the proposition of having an inspector who can tell you to do something instead of having a board to go through a lot of red tape. You are subjecting the packers to thousands of dollars of losses, probably through entire good faith on the part of some one, but that puts the packer at the mercy of a subordinate 2,000 miles away.

Mr. MCLAUGHLIN of Nebraska. I want to say your interpretation of any of these bills that have been introduced is entirely different from mine. It has been my thought all the time, and I think I am right, that any agency created at Washington will have agents in the yard and everywhere to adjust matters there so far as it is possible, and that the Secretary of Agriculture, or the commission, will be making a constant study of this whole question, the supervisory part of it, and there will be a man in every place where live stock is dealt in to have direct dealings with the matters that arise from time to time and day to day. Nobody has thought of handling this matter 2,000 miles distant.

Mr. CREIGH. But as your bill reads there everything in the way of procedure is done here at Washington. If you will write the other thing into the bill I will probably be with you. But I want to say that I have been up against commissions 2,000 miles away for 15. years. I am talking about getting away from that so that we can get prompt action, just what the shipper of live stock wants and needs.

The CHAIRMAN. If I were in the packing business, I should prefer to have some agency in Washington to tell me to cease and desist from something that is unlawful rather than be haled into court. Let the department in Washington, whatever it may be, say what the rules and regulations shall be, so that I might know exactly what to do. I would rather have an agency in Washington to say that I should cease and desist from this or that, rather than be haled into court.

Mr. CREIGH. I am not talking about being haled into court.

The CHAIRMAN. If you make a thing unlawful and a complaint is filed you must go into court for a hearing. One way is to go to the Department of Agriculture, and another is to the courts. It seems to me it would be better to give the Department of Agriculture authority over these things than to have disputes taken into court for settlement.

Mr. CREIGH. Mr. Chairman, you are missing the point we have in mind. A moment ago we had a case where Congressman Tincher thought some commission man was being discriminated against. That is a case where perhaps the power would not be so important, but it ought to be settled right there.

Mr. TINCHER. No; he was forced to discriminate against a producer.

Mr. CREIGH. In the matter of discrimination I agree with the Congressman; we would want to know what is right and proper. But suppose, under the elasticity of the phraseology of the bills, it is said that nobody shall construe it as discrimination unless it amounts to 50 cents a hundred higher than the previous man bid.

The CHAIRMAN. Oh, no.

Mr. CREIGH. You say it is absurd. I tell you that there are thousands of things occurring all the time that are equally absurd. None of us want discrimination, but you can see that there will be hundreds of instances day after day in different parts of the country where different things will come up which may be called discrimination.

The CHAIRMAN. If that rule is made in Washington, it will continue as a rule and will be enforced.

Mr. CREIGH. But there may be all sorts of different things that will come up that under such a general rule might be called discrimination at one point and not at another.

The CHAIRMAN. The Secretary of Agriculture is under the President of the United States, and do you think either the Secretary or the President would tolerate any condition of that kind?

Mr. CREIGH. I do not see how he could help it. If they make a regulation under some one of these bills then the packer could not get into court.

The CHAIRMAN. If it is the law then it becomes a criminal offense. It must either be a law or else you must have a regulation that will settle such matters.

Mr. TINCHER. There is no bill that does not give the packer his day in court.

Mr. CREIGH. I say as a lawyer with experience that as a matter of law under a bill that says a regulation may be put into effect, then we can not get into court on that regulation, as to whether it is arbitrary or unreasonable or unjust or anything of that kind, unless one circumstance occurs, and that is that the regulation is entirely outside of the provisions of the law.

Mr. TINCHER. What bill is that in?

Mr. CREIGH. In the bill that says any regulation may be made. I say the law is that up until the time that that regulation under the discretion of the administrative authority is outside of the authority of the commission, it can not be attacked on the ground that it is unreasonable or unjust. That is a very serious situation.

The CHAIRMAN. Do you contend that you do not have the right of appeal to the courts?

Mr. CREIGH. Under orders to cease and desist, yes. But that is wholly different from a regulation.

Mr. VOIGT. That proposition is in the Gronna bill which is now the McLaughlin bill here.

Mr. CREIGH. I want you to understand this, which is a part of our fear and which I think will appeal to your sense of fairness. Here is the meat inspection act. Under that act it says that meats shall not be sold under deceptive names. Twenty-five years before the meat-inspection act came along it was customary to make sausage with 5 per cent of corn meal. That corn meal bound it together and it was palatable and clean. For the first five years under the meat-inspection act that was all right. Somebody then came along and said: "There is too much corn meal used in sausage." They fixed a formula under which we should make sausage. Then they said: "If you do not make sausage under this formula," I think it was with 3 per cent of corn meal, "you can not call it sausage." There was no hearing on that regulation at all before it went into effect, reducing the corn meal content. Of course, that made more meat content, and therefore a more costly piece of goods. The packers were being punished in competition with State or local plants that were not under the inspection. We went through the Supreme Court of the United States on that matter, and that court held that under the provision of the meat inspection act that one could not use a deceptive name; the Secretary of Agriculture had the right to prescribe a formula under which sausage could be made. We never had a day in court and never had a hearing before the Secretary in the matter of that formula. We tried for years to get away from the thing, which is not protecting the public from any State or local plant and it puts us out of line competitively.

Mr. TINCHER. Don't you think that is right? Suppose you had used 25 per cent of corn meal in making sausage, would that be right?

Mr. CREIGH. It was said that if we used, I think, 10 per cent or more of corn meal, it should be marked sausage plus 10 per cent or more, as the case might be. We have constantly contended with regulations of one kind and another and can not get our day in court on them. In this case we can not say a product is sausage even if we use 10 per cent of corn meal in it, while others can. It is a commercial proposition.

The CHAIRMAN. Well, how about regulations?

Mr. CREIGH. When you come to use the word "regulation" in these bills we want to get our day in court or a hearing before the Secretary of Agriculture in any case. The making of regulations is a pretty big thing.

The CHAIRMAN. You will have your day in court or a hearing before the Secretary.

Mr. CREIGH. Well, these bills do not prescribe that right. The McLaughlin bill speaks of regulation but does not say anything about a day in court. We are fearful of that situation. I can show you hundreds of regulations that the bulk of the time may be all right, but when we get down to a definite case there may be hundreds and thousands of dollars loss through somebody trying to press an ideal as to what shall be done. Yet the practical man who has to hold the pocketbook must stand the gaff. That is what makes us fearful of any such situation.

The CHAIRMAN. Do you think we could pass a law providing for any rules and regulations that may not sometimes work a hardship? Take the meat-inspection act, that has worked some hardships, I have no doubt. I am aware of that, but on the whole the law is a good law.

Mr. CREIGH. On the whole it is an excellent law.

The CHAIRMAN. Well, will not the proposed law be the same? I do not refer to any particular bill, but any general bill that we may report out?

Mr. CREIGH. Do not take what I say as hostile to all of the bills. I am merely trying to give you some practical suggestions.

The CHAIRMAN. These questions are asked for the purpose of getting an idea of what you people have experienced.

Mr. CREIGH. I would like to have you, gentlemen, thinking about the difference between a regulation operative in a manufacturing house and a plant having to do with a live animal, say, a steer, which is a physical object. I would like to have you thinking about that before I come before you. I would like to have you thinking of the difference between getting a regulation as to how business shall be done as between the current customs of the people doing the business and the making of contracts and the meeting of mind and mind on these things. There is such an infinite difference between the trading proposition and the manufacturing end of it that it does not work out. If the evils complained of are in connection with trading in the stockyards, where the people have complaints, we want a remedy. We do not want any unfairness. We want an honest deal. If our employees are doing things improperly the quicker we learn of it the better. I want some system out in the yards that will be satisfactory. But, I say, use the machinery in the exchanges, and you might add the packers and the producers plus Government supervision, and that would give the matter prompt attention. Then we would be away from the dangers of regulation.

The CHAIRMAN. There may be transactions outside the stockyards which are just as proper to regulate. For instance, here a question has been raised about the use of cars, certain ones have alleged that certain packers have discriminated against them in the furnishing of cars, as well as a number of other things. There may not be anything to it, but if so, then legislation will not hurt anybody.

Mr. CREIGH. Certainly legislation hurts if you give people power to do things that will come back into your business.

The CHAIRMAN. If there are no unfair practices, regulation or laws will not hurt anybody.

Mr. CREIGH. You appoint a commission and you give somebody some authority, and in order to hold his job what is he going to do? He is going to find something, isn't he?

The CHAIRMAN. That may be true. But the bankers are under inspection. There are rules and regulations issued here in Washington as to them.

Mr. CREIGH. Yes.

The CHAIRMAN. If you go into a bank I think the banker will say he is glad for an inspector to come around and call attention to different things, probably to excessive loans, or heavy rediscounts. The banker would rather have an inspector come to him and tell him to cease, and desist, instead of calling him into court. He prefers his day in court with the examiner.

Mr. HORMEL. My standpoint on that is simply this. The bank inspection is for the purpose of protecting the public.

The CHAIRMAN. Exactly.

Mr. HORMEL. Unlike the packing house, the bank is intrusted with public money. That corresponds with the way the packing house is intrusted with the public health, according to my mind. That is in the matter of not giving the public unhealthy food. Corresponding to bank examinations, we have examinations now protecting the public in the matter of inspecting meats to see that no improper meats are furnished the public. The bank is inspected as to the public money, and so we have in the packing house a system of inspectors which are parallel, and which protect the people from receiving from packing houses impure meats. That protects the public health just as the bank examination protects the public's money. But there is no legislation that I know of to prohibit a banker from doing the things which are generally illegal. Those are prohibited by general laws. They are not prohibited that I know of by any specific regulations. Why shouldn't we be in the same category?

Mr. TINCHER. Let us see. The rate of interest is regulated by law.

Mr. HORMEL. I would call that parallel to Mr. Creigh's explanation about corn meal.

Mr. CREIGH. How about discrimination in the case of a banker as to loaning money or anything of that kind?

Mr. TINCHER. They discriminate in favor of securities.

The CHAIRMAN. We have the prevailing sentiment and we have the report of the Federal Trade Commission, and I want to say that I have refrained from referring to that and raising those questions. We had that matter up last year and talked about it for 40 days. I do not think it necessary to take that matter up this year. But, as I started to say, we have the prevailing sentiment, and these reports, and many people believe that there is something wrong about the packing business and that it should be looked into. That does not apply to other interests right now. If that sentiment prevailed as to other matters, I take it we should take such matters up with just as much earnestness as we are now taking this up.

Mr. HORMEL. May I make this point: I believe it is entirely right and feasible that legislation should be enacted governing the packing

industry wherein it is actually different from any other industry. But I do not believe there should be legislation enacted saying that the packer must be honest. Everybody must be honest. I do not believe that legislation should say that the packer must be square, because everybody must be square.

The CHAIRMAN. We can not legislate integrity into anybody.

Mr. HORMEL. No. I do not think you can do any more there than you have under the law at this time.

Now, gentlemen of the committee, to get back to Mr. Tincher's example of improper practices, wouldn't it be possible to stop any ill practices such as Mr. Tincher mentioned by regulating the stockyards? Could not you provide that no one packer, nor anyone who came into the stockyard business, could deal in live stock on a basis unfair to the producer?

The CHAIRMAN. If there are any evil practices anywhere may they not be in the stockyards also?

Mr. HORMEL. Perhaps so.

The CHAIRMAN. If that is true, this bill covers that matter. If there is any discrimination in regard to cars, why not apply it to that? Why not have a bill that covers all the practices that are found to be wrong?

Mr. HORMEL. If the committee will not object, I would like to consider the matter from this point of view: What is necessary to be done in order to do away with practices that are supposed to have been engaged in and that ought not to be engaged in?

Mr. TINCHER. I think the average well-informed man thinks the whole thing is wrong on just about the basis of the specific instance I have called attention to. I think that is the prevailing sentiment not among the ignorant class, but based on the background, as someone called it this morning, and upon conditions. I think the feeling is that the whole industry is running along that line. That being true, what would be the idea in passing legislation having supervision over a part of it and not having supervision over all?

Mr. HORMEL. Well, simply this, am I correct in my understanding that all the complaints that have been made by anyone who claims to have been in any way hurt are complaints against practices that occur in the stockyards?

The CHAIRMAN. Oh, no. There is the wiring on, and a number of other things. But I think the majority of the things complained of are complained of as occurring in the stockyards.

Mr. HORMEL. If we can clean up the stockyards, can we not clean up the most of the difficulties?

The CHAIRMAN. If it is necessary to clean up the stockyards, why not clean up all along down the line?

Mr. HORMEL. My point of differentiation is that the stockyards is the point at which the packing industry is different from other industries. I would no more resent a law to regulate the stockyards than I would resent Mr. Tincher's bill relating to whaet futures. The part of the act I do not like is the part where it says: Mr. Packer, you must be honest. That leaves the inference that he is not honest. Now, there may be some who are not, but I am, and I do not want any legislative inference in that way. Maybe that is an unreasonable standpoint, but that is my view of it.

The CHAIRMAN. The bill would not reflect upon the packer any more than on the trader or the commission man in the yard. If it is necessary to regulate the one why not regulate another?

Mr. HORMEL. I do not care to admit that the packer or the trader in the yard is on a different footing from the boot man or the shoe man or the miller.

The CHAIRMAN. Some people may think that all the packers are crooks and dishonest and all that sort of thing. I can not agree with that view; nor do I think the fact that regulation is suggested implies that everybody is dishonest or even that any considerable number are dishonest.

Mr. HORMEL. What I believe I can say is this, that in order to accomplish the ends desired the first part of your bill is not really necessary. As to the second part of the bill, that relating to the stockyards—though I am not a stockyard man and may be that is not satisfactory to the stockyard man—but as to that it is to me perfectly satisfactory.

Mr. TINCHER. Here is a little proposition, as you seem to want some specific instance. It is stated here in this report of the Federal Trade Commission, speaking of conditions at Wichita, Kans.——

Mr. CREIGH (interposing). Don't you want to save that until I get on?

Mr. HORMEL. Let him shoot.

Mr. TINCHER. Well, I was really reading that for Mr. Creigh's benefit. I believe I will wait for him.

The CHAIRMAN. Mr. Hormel, are you furnished with cars as regularly as are the other packers? Is there any discrimination along that line? You have brought in the stockyard proposition, and you say you are on an even footing with the rest of them in that matter; now, how about cars? Are you always supplied with cars?

Mr. HORMEL. There was a period about a year ago when there was a shortage of refrigerator cars. As nearly as I could make out, the moving time on the railroads was so slow that round trips made by cars required such a long period of time that really there were not sufficient refrigerator cars to move all of the products.

Mr. JONES. Do you use railroad refrigerator cars?

Mr. HORMEL. Up until the advent of that period, or shortly before that, when we had gotten some cars.

Mr. JONES. Are you using your own cars now?

Mr. HORMEL. We are using 100 of them.

Mr. JONES. How many of the railroad company's cars do you use in addition to those, on an average?

Mr. HORMEL. Right now the round trips of cars has gotten to a point where our own cars practically satisfy our needs. On the other hand, a year ago our own cars would not half satisfy our needs.

Mr. JONES. Do you get satisfactory service out of cars furnished by railroad companies?

Mr. HORMEL. No, sir; and for this reason, that the railroad companies let their cars run down so badly we have to spend a lot of money fixing them up before we can ship fresh meats. It was for that reason we decided it would be more economical to use our own cars in good condition than to be patching up the cars of the railroad companies.

The CHAIRMAN. Do you hire your cars or buy them?

Mr. HORMEL. We have our cars rented at an average cost of $35 a month.

The CHAIRMAN. How much did it cost you to repair the cars furnished by the railroads?

Mr. HORMEL. Well, I have no figures on that point in mind. On one car we might spend $10 and on another car $15, and maybe on another car nothing at all. In addition there was another thing that went hand in hand with the cost in the matter of shipping beef. The cars furnished by the railroad companies were not fixed up properly for the shipment of beef. We had to put rails in, 4 by 4's, and that cost us $16 a car. In addition we were unable to use beef hooks on the 4 by 4's, so we had to tie the beef up with strings, and that in some cases cut the beef so that we had to take less money for it.

The CHAIRMAN. The fact is that the railroads do not furnish proper equipment for the shipment of meats?

Mr. HORMEL. Not for beef. For fresh pork they do have some cars that are satisfactory. During the war the railroad cars had run down to such an extent that even for fresh pork they were not satisfactory without repairs.

The CHAIRMAN. The fact is that practically every packer is compelled to furnish his own cars, to either own or rent them?

Mr. HORMEL. Yes, sir. And I think that is rather a satisfactory basis. During the past five years our business has not expanded such a terrible lot, but I have had acquaintances in the East say to me that they imagined our business had gotten much larger from seeing our cars on the railroads. There is a certain amount of advertising benefit from that.

The CHAIRMAN. You get mileage on your cars, don't you?

Mr. HORMEL. Yes, sir.

The CHAIRMAN. You figure that it is more economical to own cars than to have them furnished by the transportation companies?

Mr. HORMEL. We get 1 cent a mile as mileage covered by our cars. For each car the past two months the mileage has been 1,900 miles a month. That would leave us $16 a month to make up the rental of $35.

The CHAIRMAN. You say they cost you about $16 per car?

Mr. HORMEL. It would cost us $16 to fit up one railroad car.

The CHAIRMAN. You are really money ahead, aren't you?

Mr. HORMEL. Absolutely; yes, sir.

Mr. KINCHELOE. Do you own 100 cars?

Mr. HORMEL. No, sir; we lease them.

Mr. KINCHELOE. Whom do you lease them from?

Mr. HORMEL. From the Marsh Refrigerator Car Line Co. of Milwaukee.

Mr. KINCHELOE. If we should pass an act requiring the transportation companies to furnish cars and prescribe for their ownership of cars, would it work to disadvantage to the packers?

Mr. HORMEL. If they would furnish beef cars, although we would lose whatever advertising value we now have, we would be ahead. We would not have to spend $16 a month, but would lose the advertising.

Mr. KINCHELOE. You would have the certainty of having properly equipped cars.

Mr. HORMEL. Yes, sir. There are several types of refrigerator cars. There is the open-bunker car, and the brine-tank car, and the fruit and vegetable car.

Mr. KINCHELOE. Having gone into that, tell us about stock cars.

Mr. HORMEL. We have no stock cars.

Mr. KINCHELOE. Have you been furnished with stock cars at all times?

Mr. HORMEL. Do you mean have our shippers been furnished with them?

Mr. KINCHELOE. Yes.

Mr. HORMEL. There have been interruptions. There was an interruption about the same time as this refrigerator car shortage, when there was a stock car shortage. We have had difficulties from that source for several reasons. One was as I recall from the improper handling by the railroads. I was forced to make a trip to Washington to get action from the car-service department of the Interstate Commerce Commission, to get that corrected, because the railroads claimed they could not do anything for us inasmuch as the cars were alloted by the Washington office.

Mr. KINCHELOE. The larger packers own stock cars as well as refrigerator cars, don't they?

Mr. HORMEL. Yes, sir.

Mr. TINCHER. Is that right? Do the large packers own stock cars?

Mr. HORMEL. Yes.

Mr. CREIGH. Some of them do, for the movement of live cattle for slaughter in the East.

The CHAIRMAN. You know of the talk about this in our section of the country. You are familiar with the talk going on in our section of the country, the complaint is that the smaller packers have been discriminated against in not being furnished with cars. What is the situation there? I am asking for information.

Mr. HORMEL. Well, I believe I know what you refer to, Mr. Haugen.

The CHAIRMAN. No; I do not refer to any special case. It is simply the gossip that goes on. What is there to it? That is all I am interested in.

Mr. HORMEL. Swift & Co. for one that I am sure of, and I believe there are some others—well, I do not know but I believe there are others; but I know that Swift & Co. have their own stock cars coming to our territory. That is, territory that is within 100 miles of us, and are taking hogs to the East.

Mr. VEEDER. Let me just correct that. That is not Swift & Co. That is the Swift live-stock express. It is not owned by Swift & Co. It is owned by eastern packing houses or their stockholders for the purpose of transporting hogs from the West to the packing houses in the East. Swift & Co. own no live-stock cars.

Mr. THOMPSON. Why do they use that name?

Mr. VEEDER. Because it is owned largely by people by the name of Swift. Swift & Co. do not own them.

Mr. THOMPSON. Are they the same people, the same Swifts?

Mr. VEEDER. Yes; the largest stockholder of the Swift Refrigerator Transportation Co. is the estate of G. F. Swift, deceased.

Mr. KINCHELOE. Do you have to pay $16 for every refrigerator car you get from a railroad company?

Mr. HORMEL. Oh, no. All I have said is that when we want to ship beef in a railroad car without beef rail equipment we have to spend $16 to put the rails in.

Mr. KINCHELOE. What do you mean by the word "rails"?

Mr. HORMEL. A beef car is railed overhead.

Mr. KINCHELOE. All right.

The CHAIRMAN. What about the cars sent to your territory?

Mr. HORMEL. I was simply saying that Swift's cars come to points on the Mississippi River within 100 miles of us and take live stock to eastern points. Those cars, as I understand it, are furnished to shippers who have sold stock for shipment to eastern points.

The CHAIRMAN. Do they give the shipper any advantage over shipments to you?

Mr. HORMEL. Only in case there was a shortage of railroad cars. Normally, no.

The CHAIRMAN. Only in the times when there was a shortage of cars?

Mr. HORMEL. Yes, sir.

The CHAIRMAN. But not generally?

Mr. HORMEL. No, sir.

The CHAIRMAN. You have not suffered by reason of that?

Mr. HORMEL. Not at all now. Only one week that I ever knew of, which was the worst week during this car shortage.

Mr. TINCHER. What is the object of packers owning stock cars?

Mr. VEEDERS. Let me explain that. The western packing houses that are located at the big stockyards buy their stock at the yards. Eastern slaughterhouses buy in the West and transport the live stock from the West in stock cars to the East for slaughter. There is some reason for their owning their own cars. The eastern railroads do not own live-stock cars to the same extent that the western roads do, on which live stock originates and is shipped to the big live-stock centers and there sold. The eastern railroads, which have some business but not nearly to the same extent, do not provide themselves with live-stock cars to the same extent. Therefore it becomes important to the eastern slaughterers to have their own cars so that they may get their live stock to the slaughtering points in the East.

Mr. PURNELL. Can the eastern packers compete successfully with the western packers after having transported their live stock across the continent?

Mr. VEEDER. Yes, sir; they seem to survive. The eastern trade is a little different from the western trade. It is a little peculiar and different in some respects, but they compete successfully.

Mr. PURNELL. That adds materially to the cost, does it not?

Mr. VEEDER. No; I can not say that it adds in the long run. The live stock shipped in those cars is generally a little heavier and shrunk a little better than the stock sold in the western markets.

The great reason why the eastern packing houses compete with the western is due to the fact of the great kosher trade in New York, and somewhat similarly at Boston and other points along the Atlantic seaboard. The kosher trade is big, and it is peculiar. Orthodox Jews require that their meat be eaten within a short period, I think 48 hours after slaughter; and also that the live animal be killed in a peculiar manner and with peculiar ceremony. The result is that the western packer can not ship from the West meat to be eaten by the large Jewish population in the eastern centers. They have to ship live stock to the East for it to be slaughtered there. By reason of that fact, and the further fact that a Jew will not eat the hind quar-

ters, the fore quarters bring a little higher price to the eastern packer that is received for fore quarters by the western packer. The result is that the eastern packer can sell his hind quarters in competition with the western hind quarters. He sells the fore quarter at a little higher price and, even if he has to sell his hind quarter for a little less profit than the western packer, he can keep up competition as between both fore quarter and hind quarter.

Mr. TINCHER. As I understand you the eastern packer buys stock in the West and ships it to himself?

Mr. VEEDER. Yes, sir.

Mr. TINCHER. The trade differs in that respect?

Mr. VEEDER. Yes, sir.

Mr. TINCHER. The western packer buys it at the stockyards market?

Mr. VEEDER. Yes, sir.

Mr. TINCHER. Those cars are used by the companies using them to ship stock to themselves that has already been purchased?

Mr. VEEDER. Yes.

The CHAIRMAN. Mr. Veeder, this may be outside the question, and probably this matter belongs to another committee, as I do not think this committee is going to try to amend the transportation act, but I would like to ask a question while on this point. I find that the total stock cars classified by ownership show that Swift & Co. and Wilson & Co. have 1,670, or 13 per cent, and that refers to double deck cars; and that in the matter of single deck cars they own 299 or 0.3 per cent of the total number. The independent car companies own 1,046 double deck and 12,956 single deck. So that there are a number of them owned by packers, though it is true they are subsidiary companies?

Mr. VEEDER. I did not quite get your question. The number of live-stock cars owned by the Swift Livestock Transportation Co. is a very small part of the total number of live stock cars in the country.

The CHAIRMAN. Yes. The question was asked if any of them were owned or controlled by the packers. So it is shown that there are a number so owned.

Mr. VEEDER. The Swift Livestock Transportation Co. owns a small number of cars. But I did not quite get your question.

The CHAIRMAN. Isn't that Swift & Co.?

Mr. VEEDER. Those cars are owned by a separately owned corporation, and they are operated for the benefit of eastern slaughterers.

The CHAIRMAN. It says Swift & Co.

Mr. VEEDER. Well, Swift & Co. has no object in owning and does not own any live-stock cars. It buys its live stock in adjacent stockyards. Those cars are owned for the purpose of shipping livestock from the West to the East where the live stock is slaughtered.

The CHAIRMAN. Do you mean that Swift & Co. has no control over those cars?

Mr. VEEDER. Swift & Co. has not. One of the largest stockholders in the Swift Livestock Transportation Co. is the estate of G. F. Swift, and perhaps some other stockholders of Swift & Co., but Swift & Co. do not own any live-stock cars.

Mr. TINCHER. Do they own cars or rent them?

Mr. VEEDER. Swift & Co. own the cars.

Mr. TINCHER. Does your company own refrigerators cars or rent them?

Mr. VEEDER. That was what I answered.

Mr. TINCHER. Well, I meant the other company then.

Mr. VEEDER. The Swift Livestock Transportation Co. owns its cars.

Mr. TINCHER. And does your company own refrigerator cars or rent them?

Mr. VEEDER. Swift & Co. own refrigerator cars indirectly by holding stock in a corporation organized to own and operate so-called Swift refrigerator cars. They are for the purpose of transporting Swift & Co.'s meat products to places of sale.

Mr. TINCHER. What is the fact about the car companies that suspended during the war when there was little or no building of cars? Mr. Hormel has testified that he has been able to rent 100 cars. I am wondering if car companies have cars available now.

Mr. VEEDER. Swift & Co. at times rent a large number of refrigerator cars.

Mr. PURNELL. How many refrigerator cars does Swift & Co. own?

Mr. VEEDER. Something between 5,000 and 6,000.

Mr. TINCHER. Of course the car companies build sufficient cars so that every man who wants to rent a car can rent it, and then if a railroad company could have refrigerator cars for a man who wanted them, even the small packer could have them?

Mr. VEEDER. Swift & Co. would be glad to abandon its refrigerator car service at any time if the railroads would furnish cars and the necessary service along with them. It would be cheaper for Swift & Co. to operate that way. It does not get at the most more than 2 per cent or 3 per cent on the investment.

Mr. TINCHER. Does your company build cars?

Mr. VEEDER. Some of them are built by us, and I think the most of them.

Mr. TINCHER. There are companies in the business building refrigerator cars and renting them?

Mr. VEEDER. Yes, sir.

Mr. TINCHER. You do not rent your cars from Swift & Co., do you, Mr. Hormel?

Mr. HORMEL. No, sir. We rent our cars from the Marsh Refrigerator Car Line Co., of Milwaukee. A number of other packers do the same thing.

Mr. TINCHER. And if I had a packing house at Wichita I suppose I could rent a refrigerator car on the same terms that you do?

Mr. HORMEL. Yes, sir.

Mr. TINCHER. If I did not want to own any cars and have the advantage gained from having my own cars, a private car transportation company would furnish them to me on a rental basis?

Mr. HORMEL. Yes, sir.

Mr. TINCHER. During the war the car building companies stopped, as I understand. I wondered if there was any loosening up? Isn't that true about the building of stock cars?

Mr. HORMEL. Any kind of cars. You will not hear any trouble about stock cars now. There are lots of them on the side tracks.

Mr. JONES. That is largely because of the financial depression and slack business everywhere, isn't it?

Mr. HORMEL. No, sir. It is because the cars are moving faster. Scranton, Pa., is one point where we ship to every week. A year ago to-day we could figure on from 8 to 10 days in getting a shipment from Austin, Minn., to Scranton, Pa. Now we always get there the sixth day and sometimes in even less time.

Mr. CREIGH. How about coming back. Can you give any figure on that?

Mr. HORMEL. I believe our traffic man testified in the groceries case that our refrigerator cars were making a monthly mileage of 1,100 miles a year ago and now they are making 1,900 miles.

Mr. PURNELL. You do not get any credit by reason of this expenditure of $16 you were forced to make in order to put the railroad company's car in condition where you could use it?

Mr. HORMEL. No, sir; that was wasted. And I do not believe there is a house in the country handling any volume of beef and which is under the necessity of having refrigerator cars, that has not its own beef cars in sufficient numbers to take care of its beef shipments. You heard Mr. Creigh say the other day that they used railroad equipment route cars but used their own cars for beef.

Mr. TINCHER. When you use these cars to ship beef in and expend $16 to equip them, does that become a permanent equipment?

Mr. HORMEL. No, sir.

Mr. TINCHER. What I do not understand about the situation is this: The transportation act requires railroad companies to furnish, or makes it possible for the Interstate Commerce Commission to require railroad companies to furnish, this means of transportation. And there are car-building companies providing these cars on a rental basis, and you have rented from such companies the cars you have. Why can not a transportation company have the same kind of car that you are renting?

Mr. HORMEL. For this reason, that the transportation company of course is interested primarily in getting mileage out of its cars. The packer is interested primarily in getting service out of his cars. Now, then, the Chicago, Milwaukee & St. Paul Railroad, for instance, the principal road serving us, would refuse to have 10 beef cars standing on the sidetrack at Austin earning nothing on the possibility that we, in whom they are not financially interested, would use them at some time.

Mr. TINCHER. My question does not go to that. My question is, if I do want to get a car, or if they rent these cars, why can not they rent a correctly equipped car as well as a car not properly equipped?

Mr. HORMEL. They would not be able to keep a sufficient supply on a side track to take care of our needs. With us we know how many cars we have in service, where they have gone to, and approximately when they will come back. If the railroad company was furnishing us with that equipment we would not know whether they were going to give us 10 cars to-morrow and 1 car the next day or how many. Therefore if the railroad company were to furnish that equipment they would have to have many times the amount of beef equipment that it is necessary for us to have in order to handle our business, because we can really distribute our beef in them to better advantage than they can. It is for this reason I say that it is impracticable because of the gigantic expense attached to the matter for the railroads to do it. That is the reason I believe why the Interstate

Commerce Commission has never seen fit to enforce that provision of the act.

Mr. TINCHER. I understand that situation, and I am not complaining of the privately used car. I do not think, possibly, it would be necessary to force companies to quit using their own cars. But what I can not understand is this, if the railroad company gets a car and rents it to you, or furnishes it to you as a carrier, like when you speak about getting cars and spending $16 on them to properly equip them why it would not be just as possible for the railroad company to furnish you with a properly equipped car. Do they use these cars for something else after you spend $16 on them?

Mr. HORMEL. Yes. That car may be used to-morrow for our beef shipped to Scranton. It gets down to Scranton with our meat, and then it is shipped to Albany with apples. And then it may be used out of Albany on a local run. And finally it may land in Florida for fruit. We may not see that same car in the meat business again for a year or two years.

Mr. TINCHER. You mean that it is impracticable for the transportation companies to go to the necessary expense to furnish refrigerator cars, so that the packers, independent or otherwise, can operate their business economically and conveniently by using railroad company owned cars?

Mr. HORMEL. For the beef business, yes; not in the case of pork. That applies only to beef.

Mr. GERNERD. In other words, you would think the railroad companies ought to furnish their own cars exclusively for the transportation of meats. Is that what you have in mind?

Mr. TINCHER. I do not want them to do that unless it is practicable. Any man can get a private car. It does not take a millionaire to rent one.

Mr. GERNERD. Right in line with what Mr. Tincher said, let me say that I need possibly 10 or 15 refrigerator cars every winter, between the 15th of January and the 15th of March, for shipping potatoes. It is very seldom that I will get a refrigerator car that I do not have to spend from $10 to $15 to $20 to put that refrigerator car in shape to ship my potatoes to Philadelphia. That is because there may be something wrong with the bottom of the car. I have to put in a false bottom, or I have to fix something overhead, or the sides of the car need fixing to prevent freezing. I have not shipped a carload of potatoes in the last two years that I did not have to spend a minimum of $10 on it to get that car in shape for shipment. They use that car for a dozen different things. It may be used for beef at one time, or pork at another time, or whatever may be needed, and whenever a man gets it for a particular purpose he has to put it in proper shape for shipping that product.

Mr. HORMEL. Not only that, but when you get that car in shape to ship your potatoes you may stick an oil stove in the car, and then when it finally gets up to Austin, Minn., and is turned over to us we have one sweet time on our hands putting it in shape for the transportation of meats.

Mr. JONES. If the companies were allowed to make an additional charge for the use of refrigerator cars, couldn't they afford to equip

them properly and furnish them exclusively, as you do for beef shipments?

Mr. HORMEL. Yes; they could. And I believe they could do it now, the way it is. Except I do not believe that the Interstate Commerce Commission has ever considered it feasible to try to make that change.

Mr. TINCHER. The Interstate Commerce Commission has been up against the proposition that the most of the cars would not only not hold potatoes, but lots of them would not hold a 4-year-old steer, the way they were turned back to the railroad companies by the Government.

The CHAIRMAN. Do you pay demurrage on cars?

Mr. HORMEL. I am not clear on that proposition. I know we do not dare let our cars stand around, or we didn't during the car shortage.

The CHAIRMAN. If you hire them I suppose you pay so much a day.

Mr. HORMEL. Yes, sir.

The CHAIRMAN. But if you are furnished cars by a transportation company and hold them three days what happens?

Mr. HORMEL. I am not sure about that. But I am under the impression that during the car shortage there was a charge made.

Mr. CREIGH. It is the same tariff as applies to any other shipper.

The CHAIRMAN. What is the situation?

Mr. HORMEL. I understand that the law put all cars under the jurisdiction of the Interstate Commerce Commission and made them all subject to the same rules, whether owned by us or a railroad company. The only preference we get by our ownership or rental of cars is that we get our cars back.

Mr. CREIGH. That is right. Under the railroad tariffs on the question of demurrage the matter of ownership cuts no figure.

The CHAIRMAN. Do you have to pay demurrage?

Mr. CREIGH. Yes, sir; the Cudahy Packing Co. does. If we were to ship down to Philadelphia, say, and if we were to leave a car on our sidetrack for any time, for the extent of the demurrage limit, we would pay a demurrage thereon the same as if it were a Pennsylvania Railroad freight car.

The CHAIRMAN. You speak of buying hogs. Do you buy any cattle at the South St. Paul stockyards?

Mr. HORMEL. Yes, sir. Mr. Wells was under the impression that we did not, but we do. We have a buyer on the South St. Paul market at intervals.

The CHAIRMAN. You have had no more trouble buying cattle there than hogs?

Mr. HORMEL. No, sir.

Mr. PURNELL. I suppose some one has asked you this question when I was out, but do you experience any unfair competition at South St. Paul?

Mr. HORMEL. No, sir. That was brought out.

Mr. PURNELL. The statement was made by the State inspector that whenever you came in there and bought the market price went up. I am sorry I was not here when you touched on that, as you probably did.

Mr. HORMEL. Yes; that was covered.

Mr. PURNELL. Then, I do not care to have you go over it again.

Mr. KINCHELOE. Would you pay more for a refrigerator car than for an ordinary car for the hauling of freight?

Mr. HORMEL. We pay the regular rate on our product when we ship in our own cars.

Mr. KINCHELOE. I am asking if, when you get a refrigerator car from a railroad company, it is customary for it to cost you more per car than the ordinary freight car, or than the ordinary cattle car, for instance?

Mr. HORMEL. No, sir; we pay the regular freight rate that prevails on the commodity that we ship.

Mr. KINCHELOE. That $16 you spoke about putting on a car in order to ship beef. You stand that whole expense yourself, do you?

Mr. HORMEL. Yes, sir. I think to answer your question I may cite an instance. It so happened that I had some machinery to come down from St. Paul for a breakdown in the plant. It was urgent. We had to get it at once. There was a refrigerator car standing on the sidetrack and we loaded that machinery into the refrigerator car and sent the same to Austin because there was an emergency—we would not have done it otherwise—and we paid no more freight for it than if it had been shipped in an ordinary car.

Mr. KINCHELOE. You said that when you shipped beef you had to fix up the car for that purpose?

Mr. HORMEL. Yes, sir.

Mr. KINCHELOE. Do you stand that whole loss?

Mr. HORMEL. Yes, sir.

Mr. PURNELL. You do that in this way, you add it to the cost of your product?

Mr. HORMEL. I am sorry to say that we do not.

Mr. PURNELL. You do not take that into consideration at all?

Mr. HORMEL. It goes into the cost of producing the product, but not into the selling price.

Mr. PURNELL. Whoever eats the meat pays for it?

Mr. HORMEL. No, sir; we pay for it, because the other packers shipping beef have all provided themselves with cars, and if we are careless and have to let our beef cars get on the road and have to use other cars we are the ones that suffer. The other packer is selling at the same old rate and we have to compete with him. That $16 is out of our pocket.

Mr. PURNELL. Were you present when Mr. Wells testified?

Mr. HORMEL. Yes, sir.

Mr. PURNELL. What have you to say about what he claimed for the improvements made in the South St. Paul stockyards in the matter of buying and selling and the condition of the yards themselves?

Mr. HORMEL. Well, I simply know this, that there is, at least in some quarters, a better feeling on the part of the farmers because of the situation there, they having a little more confidence in it. We are not directly affected by that change and I can not give you the details on it. This is hearsay that I am giving you.

Mr. PURNELL. Do you think the fact that the State of Minnesota took those steps to protect shippers has reflected upon the integrity of the packers?

Mr. HORMEL. No, sir. I maintain that if it considered it necessary to do that, all right. And on the same line if it is considered neces-

sary for the Congress to pass any legislation at all affecting the present situation for the regulation of stockyards there, whatever may be considered the most reasonable method is the proper thing to do. I believe that is quite in order.

Mr. TINCHER. But you will notice the witness says he is a packer and does not know whether the stockyards people will agree to that or not.

The CHAIRMAN. I asked a question along that line because Mr. Wells referred to your company as being on the South St. Paul stockyards and I thought you were familiar with the advantages or disadvantages there. Are there any advantages or disadvantages in the regulations in effect there? You say the farmers feel better satisfied with conditions there?

Mr. HORMEL. I understand that they do, but that is merely hearsay with me.

The CHAIRMAN. Any other questions? Or were you through with your statement, Mr. Hormel?

Mr. HORMEL. I would like to bring out several points that I do not feel satisfied with yet. One of them is the reason why I believe there is a good deal of insinuation in the fact that you are going to regulate the packer according to the first part of the Haugen bill at least, and I would like, if I may, discuss the necessity for having that part of the bill in there, to say something on that score.

The CHAIRMAN. Go ahead.

Mr. HORMEL. I looked up the Federal Trade Commission act and it uses these words:

> Unfair methods of competition in commerce are hereby declared unlawful.

My position is this, that any act which would be sufficient evidence to warrant action by the Secretary of Agriculture under Mr. Haugen's bill, or by the Federal Trade Commission under Mr. Anderson's bill, or by the Federal Livestock Commission under Mr. McLaughlin's bill, would also be sufficient evidence to precipitate action under the Federal Trade Commission act.

We have always felt that we were able to take care of ourselves in competition with the other packers. As far as that competition is concerned we think we can take care of ourselves, whether that competition be from big or small packer. We do not believe it is necessary to have legislation covering that part of the matter. And, further, so far as I can gather from talking to the other small packers, they all feel the same way. I can not see who is going to be helped by the first part of the bill that Mr. Haugen introduced, unless it is the small packer. Now, then, if the small packer does not feel that he needs that help, what is the necessity for having such legislation?

Mr. CLARKE. Don't you think under Chairman Haugen's bill, and if the suggestions of the Secretary of Agriculture are incorporated into that bill, that we would not alone be satisfying the present uncertain, and we will say intangible, feeling as to wrongs that have crept into the packing industry, but that we would also be laying the foundation for the Government to have adequate figures and facts and data in the future if there are other things we find we do not reach now in legislation that may come out of this committee but that should be reached. Are not we laying the foundation for something that will be of benefit in future legislation? All of you gentlemen

representing packers and stockyards claim that the reports we have here are inaccurate in a good many ways. Won't the effect that this legislation itself will have, and the regulation that will go along with it, be the laying of a foundation not alone in protecting you but the people themselves?

Mr. HORMEL. We have a Secretary of Commerce, haven't we?

Mr. CLARKE. Certainly. But I am asking for information.

Mr. TINCHER. Yes; and we have a real Secretary of Commerce at this time.

Mr. HORMEL. I would say that the aim you wish to gain there could be best accomplished by putting an amendment on either the Sherman Antitrust Act or the Clayton Antitrust Act or the Federal Trade Commission act, on one of those three acts, authorizing the Secretary of Commerce to go in and sufficiently investigate any business which is under suspicion of following bad practices, and to whatever extent may be necessary to establish the facts in regard to that particular matter.

Mr. TINCHER. Is there anything significant about your suggesting the Secretary of Commerce to do this? Do you know who he is?

Mr. HORMEL. I have not the slightest idea?

Mr. TINCHER. Well, if you do not like the Secretary of Agriculture we might take the Secretary of Commerce.

Mr. HORMEL. I mentioned the Secretary of Commerce because he has jurisdiction over all business. I did not say the Secretary of Agriculture because he has not jurisdiction over all business. Would not some such amendment to the present law really gain the end you wish to gain?

Mr. TINCHER. Oh, there is no difference between amending a law and the passing of a law.

Mr. HORMEL. Well, let us report out of this committee two bills.

Mr. TINCHER. We will do well to pass one.

Mr. HORMEL. Let us first pass one covering the stockyards and the practices in them in whatever is the most reasonable and proper way. Then if we feel that something further is necessary in order to keep a man honest, let us report out a general bill affecting every man and making every man honest.

Mr. TINCHER. We have had before this committee Mr. Hoover, who is the Secretary of Commerce, and Mr. Wallace, who is the Secretary of Agriculture, and they are inclined to think the trade is so intertwined that probably one jurisdiction would be less trouble. Did you hear the Secretary of Agriculture when he made his statement this morning?

Mr. HORMEL. Yes, sir; but I could not help wondering, while he was testifying, if he would like some regulation of the printing industry.

Mr. TINCHER. I think he would welcome it.

Mr. HORMEL. He did not suggest any such bill.

Mr. TINCHER. And no such matter was under consideration.

Mr. HORMEL. I know there must be some crooked printer somewhere.

Mr. TINCHER. I think the Secretary of Agriculture would welcome a bill to correct the evils in the printing trade. I am sure he would welcome legislation if he thought it was necessary to get information

from the different papers to find out what the packer propoganda costs a year.

Mr. HORMEL. I want legislation to get right practices in the packing industry, but I do not think we are on the right track. I think any legislation should be more general in scope and that you should bring within its provisions all people doing business.

Mr. TINCHER. If you would rather have Mr. Hoover than Mr. Wallace, then all right.

Mr. CLARKE. You are confusing two terms, supervision and regulation. I think the Secretary was for supervision and not for regulation.

Mr. JONES. There are various industries that are now under Government regulation, such as the railroads and banks and other things that have become important enough in this country to have special regulation with reference to their particular line of industry. It is a question whether the public interest and need is such as to require regulation as to the packing industry. That is all we need to consider.

Mr. HORMEL. Well, I can not conceive myself that it will be possible to convict the packer or straighten him out under any other legislation if you can not get any action under the legislation that already exists.

Mr. TINCHER. I am afraid you do not consider these matters carefully enough before you express yourself. Mr. Hoover, Secretary of Commerce, is going to be awfully busy in his line, which is to build up trade in foreign countries that will afford you a market place for your product. Mr. Wallace, from your home State, is going to run the Department of Agriculture, and this subject is related to agriculture in such a way that if we are going to have regulation, with all due respect to both gentlemen, who have great ability, I think Mr. Wallace's department would be the place to put you.

Mr. HORMEL. And you promise that by giving the Secretary of Agriculture, if he is the one, power to investigate any particular packing business at such time as it is under suspicion, that that will be done without subjecting us to this general suspicion?

Mr. TINCHER. That is all he is going to do. He is going to put the packers in jail.

Mr. HORMEL. Is he going to put somebody else in charge of that, and won't he have to get men enough for this supervision, and aren't we going to bear the expense of that, of getting such information at times when it is not necessary?

Mr. TINCHER. Who bears the expense now?

Mr. HORMEL. The packer. Every time anyone comes into our accounting department to get information I have to put a clerk at that work to give it. Every time some one wants a report, I have to have it made out. Every time some one wants to talk to me I have to stop and talk to him.

Mr. CLARKE. You have your clerk already employed.

Mr. HORMEL. Yes; but he is busy at something else; at the business for which he is employed. We would not have him if he did not have something to do, and when he has to stop to do this something has to be sacrificed.

Mr. GERNERD. Wouldn't the matter of supervision be a very small expense?

Mr. HORMEL. No, sir; because you can not tell how far it will go. Let me illustrate: The Department of Agriculture has started to make us pay for all time of Government inspectors over eight hours. Maybe after this thing goes along a little while we will be paying a part of the salary of these men.

Mr. GERNERD. Do you mean that you are paying a part of the salaries of the men employed by the Government?

Mr. HORMEL. I mean to say that the packers are paying that portion of the salaries of the men working for the Department of Agriculture that means more than eight hours in any one day. I do not think that is fair. I do not think the legislation ever contemplated that. I doubt if the framers of the bill intended it, but that is what it has grown to.

Mr. CREIGH. I am just wondering about the situation here, Mr. Chairman. I do not want to interrupt this proceeding, nor do I wish to sidetrack anything, but there are two more witnesses here to be heard.

The CHAIRMAN. If you will go on, Mr. Hormel, we will soon be through.

Mr. GERNERD. Before you leave that subject, Mr. Hormel, I want to ask you what do you do with your by-products?

Mr. HORMEL. We sell them.

Mr. GERNERD. You sell them?

Mr. HORMEL. Yes, sir.

Mr. GERNERD. Do you have any separate companies in which you own the controlling stock to which you sell those by-products?

Mr. HORMEL. No, sir.

Mr. GERNERD. The by-products a year ago practically took care of your overhead, didn't they? Wasn't your real profit made in your by-products rather than in the actual sale of meats?

Mr. HORMEL. Well, we do not differentiate in our accounting between by-products and meats, and therefore I can not answer that question. I do not know just what we do get for our by-products.

Mr. GERNERD. Do you mean to say that in your cost of production, and that is what it finally comes down to, you do not know what the different by-products coming from a steer—say hides, horns, and hoofs and fertilizing material—amount to? Do you mean to say you do not know what relation they bear to the general overhead?

Mr. HORMEL. Yes; I absolutely mean to say that.

Mr. GERNERD. I am asking you what proportion of your overhead does that take care of?

Mr. HORMEL. I say absolutely I do not know that.

Mr. GERNERD. You do not know that?

Mr. HORMEL. I do not believe that any packer can answer that in regard to his pork. Can you answer that in regard to your pork, Mr. Wilson?

Mr. LIGHTFOOT. On that point I want to say that to-morrow Mr. Wilson expects to go on the stand, and he will give you the prices for several years covering the values of all by-products.

Mr. GERNERD. That is just what I want. I think that a very material matter, and that will be all right. This may have a lot to do in another direction.

Mr. KINCHELOE. Here is a thing that is a little new to me. Do you mean to say that all of the employees of the Department of Agri-

culture, in addition to the employees in the Bureau of Animal Industry who work over eight hours at any of your plants or at any other plant that is on an eight-hour day, are paid by the packers?

Mr. HORMEL. Yes, sir; and at the rate of time and one-half.

Mr. KINCHELOE. Well, is that a part of the organic law creating those offices, or do you know?

Mr. HORMEL. No, sir.

Mr. CREIGH. It is in one of your appropriation bills. Of course, it is not paid directly to the inspector, but it is paid through the regulation.

Mr. HORMEL. We get an individual bill.

The CHAIRMAN. I believe it came at the suggestion of the packers.

Mr. CREIGH. The packers have opposed every suggestion on the basis of paying money to inspectors.

The CHAIRMAN. That was when we had this matter up?

Mr. CREIGH. No; this is a recent amendment.

The CHAIRMAN. Wasn't there a suggestion, if not directly, still practically amounting to the packers paying this money? About three years ago, I think, though I am not sure about the date, it was suggested to the Committee on Agriculture that in case overtime was required the packers might be permitted to pay for it, and instead of permitting it to be paid direct to the inspectors it should be paid to the Government.

Mr. GERNERD. Wasn't that a war-time proposition?

The CHAIRMAN. I think it was during the war.

Mr. KINCHELOE. All the time the employees from the Department of Agriculture work in packing houses or yards or anywhere else over eight hours they are paid time-and-a-half for overtime by these packers, are they?

Mr. HORMEL. Yes, sir.

The CHAIRMAN. That occurs only in rare instances.

Mr. KINCHELOE. I mean when they do work overtime. How came that to happen?

The CHAIRMAN. I understood it came through a suggestion from the packers; that instead of the packers having to close at a certain hour that they might continue on.

Mr. TEN EYCK. In other words, what we would have done they would have kept the factory open only eight hours, but for the convenience of the packers, if they worked more than that, they were to pay the overtime for the inspectors.

The CHAIRMAN. Or we would have to have an extra man at possibly a salary of $2,000 or $3,000 if they worked more than that number of hours.

Mr. HORMEL. I take it the committee has nothing more to ask me. I am sorry I have appeared so dilatory in the making of my statement, but with the questions asked and interruptions it was pretty hard for me to be otherwise.

In conclusion I want to say that there are just such little things that may hurt us, things that we can not conceive of now and can not contemplate now, but that will probably hit us in the matter of regulation. I firmly believe that any law you may pass here, other than perhaps the regulation of stockyards, if that is necessary, and I do not know; but that any other law will be superfluous and will not gain the end which you wish to gain. I believe that any other law

is liable to do harm instead of good, and it is my idea that there should be some means of getting fair play among the packers, certainly under the present statutes, and we as one small packer feel assured we can get fair play by virtue of the laws already existing; otherwise we would not be here protesting. We would want to save our lives and our business and would be here favoring action if we thought it was necessary.

Mr. CLARKE. You heard the statement of the Secretary of Agriculture?

Mr. HORMEL. I did not hear the first of it.

Mr. CLARKE. From his statement you would be willing for the Government to have supervision in the spirit he mentioned, wouldn't you?

Mr. HORMEL. Yes, sir; if I could be sure of its being in that spirit. But men will change and committees will change.

Mr. CLARKE. Why couldn't you meet the Government in the same spirit we are trying to meet you?

Mr. HORMEL. The Government is meeting us in the spirit that it has got to watch us.

The CHAIRMAN. Do you consider it a hardship to occasionally pay a small amount for overtime?

Mr. HORMEL. It is a small drain on us.

The CHAIRMAN. How much expense is it to you or to the average packer?

Mr. HORMEL. Well, I can not give you the exact figures. There was a time when it first went into effect and we were operating 10 hours a day every day that it meant we had to pay three hours overtime every day. It was on that basis.

The CHAIRMAN. How long ago was that?

Mr. HORMEL. A year ago. That meant that every day we had to pay three hours' overtime to every one of the 16 inspectors in our plant.

The CHAIRMAN. Are you running 10 hours a day right along?

Mr. HORMEL. We were that winter, when this thing came along.

The CHAIRMAN. You were entitled to an additional inspector. The representations made to the committee were that occasionally a packer would desire to run an hour or two overtime, and he could not run without an inspector, and for that reason the packers preferred to have the privilege of paying for that hour or two, whatever it was, so as to save the Government the expense of furnishing them with an additional inspector for that little time.

Mr. KINCHELOE. Was that through mutual agreement with the packers, that if they ran over eight hours a day they should pay the extra time?

The CHAIRMAN. I understood it came as a suggestion from the packers.

Mr. CREIGH. Let me suggest that Mr. Wilson is here, and that is rather a practical matter, and I only know from hearsay, and that he could well explain it to you.

Mr. WILSON. Mr. Chairman, I do not think it was by arrangement with the packers. I think it is only fair to state that probably in one instance one packer said rather than not operate overtime, and if he could not operate any other way, he would pay that additional charge

himself. I know that it was never submitted to the packers as a body.

The CHAIRMAN. But as it was stated around the table, that is the understanding I had at the time, and I think others had the same understanding, that the suggestion came from the packers.

Mr. WILSON. It may have been so stated, and if it was so stated it must have referred to the case of one Chicago packer, one of the smaller packers. He had the question up, and was very much put out to think the Government would not permit those inspectors to continue over the eight hours without his paying the extra charge. It was during the war period, and he concluded he would rather pay it than to shut down those extra hours. But it is not a matter that has been submitted to the packers generally.

The CHAIRMAN. Do not understand me to say that it was submitted, but it was the talk around the table.

Mr. WILSON. On the part of your committee.

The CHAIRMAN. That it would be an accommodation, and that they would gladly pay that additional charge.

Mr. WILSON. I think that statement might fairly have been made on the strength of that one packer.

The CHAIRMAN. To what extent is it carried on?

Mr. WILSON. I do not think it is an important item now, but I can see where it might develop into a right serious matter to the packer.

The CHAIRMAN. During the war a number of things had to be done.

Mr. WILSON. But even now there are a number of packers who have set their time on the 10-hour basis, even though they are not working over 8 hours. And some of the labor people are indicating that they would like to have more work than eight hours. Of course you know where that proposition stands.

The CHAIRMAN. In normal times what would it amount to? Do you generally run over 8 hours?

Mr. WILSON. Well, very frequently there are times when a packer must run over 8 hours. If we could control the receipt of livestock and regulate that matter it would not often be necessary to run over 8 hours. But when cattle come in as you know they do, one day 30,000 or 40,000 and the next day 10,000, and maybe the next day a fewer number, we have to handle the stuff when it comes in. We can not hold those cattle and block the yards and suffer the shrinkage. We must run overtime when those times come, even if we have to pay double or treble time. We have to dispose of that stock. We must be in shape to run the yards the next day. We can not say: We will carry these over till Friday, not if they come in on Wednesday. That is a business that can not be handled in that way.

The CHAIRMAN. Is it of enough importance to change the law?

Mr. WILSON. I do not understand that it would require any change in the law. It might require a change in the ruling of the department.

Mr. TINCHER. How many hours a day do those inspectors really work?

Mr. GERNERD. Yes, if they are not continuously at work is there any reason why they could not put in that time. We do not want to work any hardship on anybody, but we here in Congress have to work 12 and 15 hours a day in order to do the work that the people require of us, and while we want to be absolutely fair to everybody

there is no reason why the public service should suffer because of the need of a little overtime now and then.

Mr. WILSON. Well, gentlemen, I personally have a great deal of respect for these inspectors and for their work. I think they are generally misunderstood. They have pretty hard work, and I have a great deal of respect for them in the conduct of the work.

Mr. TINCHER. Isn't there a distinction between working and being on duty. As a matter of fact, many times a day for a goodly portion of the time they are not busy, are they?

Mr. WILSON. I would not say that. When the plants are busy they are busy, and they have a big responsibility. These men are throughout the plant, in every department, and they are using knives in making inspections. They are real working men. Their work is not only laborious but there is a responsibility attached to their work.

Mr. TINCHER. But the principle of letting the packers pay them a part of their earnings is wrong.

Mr. WILSON. I think so, too.

Mr. TEN EYCK. I do not think any particular industry supervised or inspected should pay a part of that cost.

Mr. WILSON. I agree with you. But at the present time I do not think it is an extreme burden.

Mr. TINCHER. But the principle is wrong?

Mr. WILSON. Yes, sir.

Mr. TEN EYCK. If a packing house wants to work 10 or 15 hours a day and the Government wants to let them do it the Government should have inspectors on duty there.

Mr. KINCHELOE. Is your minimum day 8 hours?

Mr. WILSON. Yes, sir; it is now.

Mr. KINCHELOE. You say you frequently run over that because of congested conditions?

Mr. WILSON. Yes, sir; and we pay overtime beyond that.

Mr. KINCHELOE. And you have been paying the Government inspectors time and a half for any time they put in in excess of 8 hours?

Mr. WILSON. Yes, sir.

Mr. CREIGH. And of course he has to pay overtime in the same way to his own employees.

Mr. KINCHELOE. Well, that does not concern us.

Mr. WILSON. Certainly not. But we pay them for everything over 8 hours.

Mr. KINCHELOE. I do not think that is right.

Mr. WILSON. Nor do I.

Mr. VOIGT. Mr. Hormel, it appears in the evidence that you gave before this committee in the last hearing last year, beginning at the bottom of page 988, that there was a letter which was copied from page 2096, part 5, of the hearings before the Interstate Commerce Committee, that at one time had packer legislation under consideration. In those hearings was found a copy of a letter written by a representative of Sulzbergers Sons Co., the latter company being succeeded by Wilson & Co. That letter was written to a representative of theirs at Albert Lea.

Mr. HORMEL. Yes, sir.

Mr. VOIGT. That is a packing plant that competes with you?

Mr. HORMEL. Yes, sir.

Mr. VOIGT. This is what that man said:

Believe that the coming week, when we will endeavor to buy up close to the maximum capacity, will demonstrate the question as to the possibility of getting a sufficient supply of hogs without we becoming more aggressive. Unless it is demonstrated by this and next week's prices that we can continue to get the proper volume of hogs in the face of this competition, we will recommend that we place a buyer in strictly Austin territory, having this buyer ship the hogs purchased direct to Chicago or some of our other plants. In order to do this it will be necessary for some one to go on the ground and study carefully the territory where this could be worked out to advantage.

That shows that the predecessors of Wilson & Co. were willing to go right into your territory and bid up higher prices in order to get hogs away from you, does it not?

Mr. HORMEL. It would indicate to me that we had them worried in that particular district. I think this was all covered in the testimony last year, and I think that testimony has been made a part of these proceedings on motion of your chairman.

Mr. VOIGT. Well, you need not bother about that; just answer the question. I am calling attention to a specific letter here. It shows that one of the Big Five packers was willing to adopt an aggressive policy in your district, does it not? That is what they say.

Mr. HORMEL. Surely.

Mr. VOIGT. The thing that strikes me about that letter is this: That while they were willing to adopt an aggressive policy toward you, yet there is nothing in any hearing which discloses that any of the big packers was willing to adopt the same sort of policy toward any of the other four. Have you ever seen any statement where one of the Big Five packers adopted that sort of policy toward the other four?

Mr. HORMEL. May I answer that indirectly? I will tell you why I want to answer it indirectly. The matter of the 50-50 agreements and all that sort of thing has been brought up. There may have been such a thing, but we never happened to enter into one if there was. But this fact remains, that Wilson & Co. invested, at Albert Lea, their money in a plant, and for their investment to be made a paying proposition they must kill so many hogs continuously. We have an investment in a plant at Austin, and in order to meet the expenses of that investment we must kill so many hogs. We have never had any understanding with Wilson & Co., and yet we know they are going to kill enough to meet their overhead, and in the same way Wilson & Co. know we are going to kill enough to meet our overhead. If there are not enough hogs in that community to meet that overhead, and if we go out and buy hogs so that he can not get them, he is going to get awfully busy to try to get those hogs back. Otherwise he will be forced out of Albert Lea.

Now, then, gentlemen of the committee, what is the effect of that effort? This thing, to my mind, puts itself in the condition where we do prorate the stock between us in this way, that we each go after what we want, what we must have, hard enough to get it, however hard that may be.

Mr. VOIGT. I understand that there is a good deal of competition between you and Wilson & Co. in your territory?

Mr. HORMEL. Yes, sir.

Mr. VOIGT. Undoubtedly that tends to bring out a fair price for the product that you buy. But the point I would like to know

about from you is whether you know of any other instance where one of the Big Five packers pursued the same aggressive policy in getting what they considered their supply of hogs toward each other that in this letter it is mentioned they were going to assume toward you?

Mr. HORMEL. No, sir, I do not. And, furthermore, I know that Wilson & Co. have found out that it is not a profitable business to pursue that same policy toward us now. I do not know what idea they had then, but now they have come to the conclusion that it is a lot cheaper to go to Sioux City or St. Paul or some other part of the country and buy hogs than to come to Austin and pay 25 cents or 30 cents or 40 cents more to get them there.

Mr. VOIGT. You say they have a plant at Albert Lea, and, of course, they need a certain number of animals to keep that plant fairly well supplied?

Mr. HORMEL. Yes, sir.

Mr. VOIGT. You were probably here when that letter was read respecting Denver, the one from one Armour to another Armour?

Mr. HORMEL. Yes, sir.

Mr. VOIGT. It appeared in that letter that at Denver the Swift plant was considerably larger and better equipped than the Armour plant, and still they were dividing up 50-50 in quantity. Evidently in that case the Swift plant was not operating to capacity.

Mr. HORMEL. Well, of course, I do not know whether the actual records would prove that they did divide the hogs 50 per cent to each plant or not. I do know this, that if Armour & Co. were able to kill only so many hogs because of having an old plant at the town, and Swift & Co. came along and built a new plant, that just because Swift's plant was bigger I do not believe that Armour would concede to them: Now, you have a bigger plant, we will let you kill the most hogs. I think the plan would be that Armour would still go after the same number of hogs, and if he did I think Swift would have a pretty hard time getting him to reduce the number. I think the the percentage would be pretty liable to remain half and half, so that really each of them would be getting about one-half of the receipts, whether they had any real agreement or not. I think it would continue to be on a 50-50 basis if that is the way it happened to be.

Mr. VOIGT. Suppose you had the only plant in a certain locality, and another man came into that locality and put up a plant twice as large as yours, having twice the capacity of yours. Do you suppose that under those conditions you would be able to continue to take 100 per cent of the hogs raised in that locality, if you had been doing it before?

Mr. HORMEL. No, sir; on the other hand, it would be impossible for him to come in there and get away from us enough hogs to fully operate his plant, because the minute he started taking the hogs we had to have to keep our plant going, to keep up our kill, we would start bidding up on those hogs and would make the business unpro t-able to him as well as to ourselves, and he would have to change his tactics.

Mr. VOIGT. Would it necessarily follow that because two men have two plants at a given point they must divide up the receipts fifty-fifty?

Mr. HORMEL. No; but it is not possible that one will concede to the other. If there are enough hogs coming into Denver to kill only 100,000 for a given period of time, then each one will fight to secure as large a proportion of those 100,000 as it is necessary for him to have, and if it has been on a practically fifty-fifty basis it will likely continue on that basis. They will find that they can not get hogs away from the other fellow. If they try to do that, they will simply bid the hogs up to a point where they will attract hogs up to the Denver market, but not attract hogs away from other markets, because if they did they could not compete with packing houses buying in other markets and would soon go out of business.

Mr. VOIGT. Your theory seems to be that if two men are located at a given point and are buying a given commodity that there is a sort of economic law that would make them equal?

Mr. HORMEL. I do not think it is an economic law. I think it is the law of human nature, the natural aggressiveness on the part of each one.

Mr. VOIGHT. That is all.

The CHAIRMAN. We are very grateful to you.

Mr. HORMEL. And I wish to thank you, gentlemen, for your patient hearing.

Mr. CREIGH. Mr. Rogers, of the South St. Paul Livestock Exchange, is here. Mr. Tincher, will you be good enough to ask him about that commission man's letter?

Mr. TINCHER. I will.

STATEMENT OF MR. N. P. ROGERS, PRESIDENT OF THE SOUTH ST. PAUL LIVESTOCK EXCHANGE, ST. PAUL, MINN.

Mr. ROGERS. I might say that I am the president of the South St. Paul Livestock Exchange, at St. Paul, Minn., and am also in the live-stock commission business.

I came down here on a wire from Mr. Brown, who said that the South St. Paul Livestock Exchange was being assailed and that he thought somebody ought to come down and answer the aspersions that have been cast on the exchange in that market. So I came, not knowing even who the man was that was doing that work. After I got here I found that it was Mr. R. J. Wells, who is the supervisor at the South St. Paul stockyards. I have just barely had time to read over his statements made before your honorable committee.

Mr. TINCHER. Why, I think Mr. Wells brags on your exchange. He said it was the best stockyards in the world and that if we passed any law he wanted us to exclude that exchange from the operations of the law.

Mr. ROGERS. Mr. Wells is a pretty smooth politician, and he is trying to put our exchange out of business and has been doing so ever since he has been there, although when he came there we told him that we would cooperate with him fully in every respect and afford him every assistance to clean up any work that was wrong or any evil practices in the yards.

We had a committee to sit down with him, and he adopted the rules of our exchange pretty nearly word for word. I am going to

leave with you gentlemen a copy of his regulations and also a copy of our exchange rules.

Mr. TINCHER. Did you understand that Mr. Wells attacked the South St. Paul Exchange?

Mr. BROWN. I understand so; yes, sir. From the dispatches I had.

Mr. J. S. BOYD, secretary National Livestock Exchange. I sent the wire.

Mr. MCLAUGHLIN of Nebraska. Why did you send such a wire?

Mr. BOYD. Because the testimony showed Mr. Wells had issued an order arbitrarily to the exchange at South St. Paul to reduce the commission charges to $2 a car, and that the matter was now a matter of litigation. And he said that under his supervision conditions had been improved. I wondered about it, and for that reason I requested Mr. Brown to ask this gentleman to come here and state what the situation is.

Mr. KINCHELOE. You say Mr. Wells has been trying to put that exchange out of business. If that exchange went out of business, wouldn't Mr. Wells lose his job, too?

Mr. ROGERS. No, sir.

Mr. KINCHELOE. Have you commission men a board of trade or exchange?

Mr. ROGERS. Yes, sir.

Mr. KINCHELOE. Why would he want to put that exchange out of business?

Mr. ROGERS. He is trying through laws he is getting passed through the legislature to assume some jurisdiction and supervision over the dealers at the yard, and also over the stockyards as far as our exchange is concerned, which is the same thing.

You gentlemen, I think, all understand what a live-stock exchange is. We think we have one of the most up-to-date live-stock exchanges of any of the 27 markets in the country. We have adopted rules there that some other exchanges have not adopted. We have full rules that work for the benefit of the producer of live stock. We commission men know that without the producers of live stock we would be out of business, and we feel that our interests are the producers' and shippers' interests. And we are fighting their battles all the time, and have been doing so ever since we organized the exchange, and even before—the commission men were fighting the battles of the producers of live stock.

As I said, we wanted to cooperate with Mr. Wells in every way possible, except we told him when he started this work of supervision that we would be glad to cooperate in every way possible, and would obey all of his rules and regulations, other than reserving the right to fix our own commission charges for the handling of live stock. On that score we went into the courts with him and the matter is now in the Supreme Court. It started in the district court, where we won the first round, and it has now been argued before the State Supreme Court of Minnesota and we will probably get a decision in a few weeks.

Mr. JONES. That seems to me, in substance at least, just about what he said here.

Mr. ROGERS. Yes; he said that part of it. I have read his statement from beginning to end, and Mr. Wells has evidently got his wires crossed on a good many things.

Mr. PURNELL. State wherein he has misrepresented the situation at South St. Paul?

Mr. ROGERS. Well, in the first place, he talks about hog troughs. In order to understand that I will have to go through a short history. Hog troughs were put in originally about seven or eight years ago by one commission man putting them into his own pen, and in that way he thought he had a little advantage over his competitors in the business. It went along until all of the commission men soon had hog troughs in their pens. This was before Mr. Wells came there by five or six years. Then the number of commission men began to increase. The stockyards company used to make these troughs and put them in the pens for us. They were increasing so fast that the stockyards company conceived the idea that they would take these troughs out of the pens and let the boys feed the hogs on the bare floor.

I ought to explain that the floors are brick and just as soon as the hogs are out each day they are washed up and are perfectly clean every morning. Of course, after three or four loads of hogs have been put in there they may get a little muddy, and a little corn may be wasted. Mr. Wells represented to you gentlemen that his supervision caused the troughs to be put back. When they were taken out of there the live-stock exchange at South St. Paul protested violently against it, because we thought it pleased our shippers and we wanted to keep them there.

Mr. WILLIAMS. Who took them out?

Mr. ROGERS. The stockyards company. They were taken out and were out for a while, and then some years ago the Minnesota Live Stock Shippers' Association had a bill passed through the legislature, before Mr. Wells ever thought of being supervisor, for the troughs to be put back. I think they were put back before Mr. Wells came there. Anyhow the law was passed before he came there. That law was passed at the same time that they passed a law putting us under supervision.

Mr. TINCHER. Who came there as supervisor?

Mr. ROGERS. Mr. Wells.

Mr. TINCHER. It was a good idea to have hog troughs. You were for them?

Mr. ROGERS. Our exchange thought the troughs were all right, and we wanted to keep them.

Mr. PURNELL. I do not see how that can have any bearing upon the merits of any one of these three bills. I think we are wasting time on a discussion that might well be laid aside.

Mr. ROGERS. I think the whole thing that Mr. Wells said is entirely irrelevant to any of these bills.

Mr. PURNELL. And it would be just as irrelevant for you to take the matter up.

Mr. TINCHER. Do you know J. E. Decker & Son?

Mr. ROGERS. No, sir.

Mr. TINCHER. They are independent packers.

Mr. ROGERS. Of Mason City?

Mr. TINCHER. I think so.

Mr. ROGERS. Decker Bros., I thought it was. I have heard of them; yes, sir.

Mr. TINCHER. They say they have had trouble buying in your yards because your commission companies will not price them anything until Swift & Co. have had a chance to bid on it.

Mr. ROGERS. How old is that letter?

Mr. TINCHER. I do not know. This is a report filed June 28, 1919. It is rather an up-to-date report. Did they have a condition like that there, and yet you have never heard of it?

Mr. ROGERS. I think possibly before Armour came there maybe some of Swift's buyers might have tried to bulldoze some commission man, like buyers do in many yards. But I have never seen the time when anybody could not come in there and buy stock if they would bid up on it.

Mr. TINCHER. Do you know Reuben A. Rath, an independent packer in an Iowa town?

Mr. ROGERS. No, sir.

Mr. TINCHER. He says he gave up trying to trade at the South St. Paul yards because the commission companies would not let him buy anything unless he would pay at least 25 cents more than Swift & Co.

Mr. ROGERS. I do not think you could have that condition there, because the commission man is out to get all he can for the stock, and will sell to anybody.

Mr. TINCHER. Do you know Richard F. McGoon?

Mr. ROGERS. Yes, sir; he is a shipper, but he has not shipped any stuff in there for four or five years, I believe.

Mr. TINCHER. Here is what he says:

Q. Well, did they complain any to you, or did they explain to you at any time that one of the things that made them believe they had to give Swift the first chance was that if they sold some cattle out of a lot to somebody else that they were sometimes told they had better go sell the rest of them to the same man?
A. Yes, sir; I have heard that.
Q. How many times have you heard that?
A. Many times.
Q. And from different commission men?
A. Yes, sir; several different ones.

Do you know Charles Fearn?

Mr. ROGERS. No, sir.

Mr. TINCHER. He was asked if he had any trouble buying fat cattle in the St. Paul yards, and he answered:

I can give you an instance: Our buyer went up to Prouty & Co.'s representative and made him a bid on some steers. He offered him 7¼ cents—I think was it 7¼ cents. Prouty's man said, "Well, wait a minute." He came back and said "Swift & Co. want those for 7¼." Our man said, "Well, isn't my business as good as his?" He said, "Yes; Swift & Co. want them. If you want them you will have to pay a quarter higher." Now, those steers were not worth a quarter higher on the market. In other words, in this case at least they showed favoritism in not taking the first bid they received.

Mr. ROGERS. I don't know of anything of that kind.

Mr. TINCHER. And then the further question was asked—

Q. Now, have you had any other experience of that kind?
A. Yes; we have had a number.
Q. All along the same way?
A. Yes, sir.
Q. And with different buyers?
A. Yes, sir.
Q. But all of them Swift buyers, or, rather, with different commission men?
A. Yes, sir

The report goes on to state—

Another independent packer stated to two representatives of the commission that in several attempts to buy live stock at the St. Paul markets he had experienced so much unfair and discriminatory treatment, such as is described above, that he was forced to stay out of that market, although the class of animals offered there were most desirable for his plant.

Do you know anything about those practices being indulged in in your yards?

Mr. ROGERS. No, sir; I do not.

Mr. TINCHER. These men I have mentioned to you seem to have been sworn and to have given sworn testimony.

Mr. ROGERS. I have said that I think that possibly a good many years ago, before we had more competition in there, like Armour and these other men, some commission men were really afraid of Swift's buyers, and probably those buyers did keep them cowed as much as they could to get them to sell to Swift. That is human nature. They were human the same as other people.

Mr. PURNELL. Did you read the statment that Mr. Wells made about the buying of Hormel affecting the market?

Mr. ROGERS. Yes, sir; but I do not think it is at all true. It is not in the way he puts it. Hormel buys hogs quite frequently, and I do not notice any big jump like Mr. Wells said occurred.

Mr. PURNELL. Do you notice any small jumps?

Mr. ROGERS. I have noticed jumps when four or five buyers get in there besides the regular buyers. It would naturally happen, for they would have to give more than the packers would give.

Mr. WILLIAMS. Mr. Wells says there is no real competition there.

Mr. ROGERS. I differ with him on that. I say there is not only competition between Swift and Armour's buyers and the other big packers, but between Swift and Armour and other speculators who are buying cattle.

Mr. KINCHELOE. But he refers to hogs.

Mr. ROGERS. There are lots of orders coming there from Eastern buyers.

Mr. TINCHER. When did Wells come there?

Mr. ROGERS. In 1920, I think it was. The law was passed in 1919.

Mr. TINCHER. He is rather recommending the institution. He says you have it in pretty good shape now, and claims it is a good place to go to, for people to ship to.

Mr. TEN EYCK. Do you feel that your yard at the present time is run as well as any other yard in the country?

Mr. ROGERS. I want to touch on that. I want to say——

Mr. TEN EYCK (interposing). Just answer that question.

Mr. ROGERS. Yes, sir; I think it is.

Mr. TEN EYCK. Do you think it is run better than most other yards?

Mr. ROGERS. Yes, sir; I do. Mr. Wells states that when he came there conditions were deplorable. I do not hardly know how to answer that statement. I wish he were here so I could answer him in the right way.

Mr. TINCHER. Don't you think he is right, if this sworn testimony as to the condition of the yards in 1918 is true?

Mr. ROGERS. There may have been some condition like that once in a while, that a commission man was afraid of a buyer for a packer.

Mr. TINCHER. Well, if that is the condition what do you say?

Mr. ROGERS. Well, I never knew of any such condition.

Mr. TINCHER. This is in the statement of the Federal Trade Commission, and quotes the testimony of witnesses who testified before examiners of the commission.

Mr. ROGERS. Gentlemen of the committee, quite often a shipper will come into the yard and he may think he has been mistreated. Lots of times a commission man has worked very hard for him and yet on account of some condition he may think he has been mistreated.

Mr. TINCHER. What do you think about his being mistreated according to these statements? Suppose I had a carload of cattle of yours and one man was willing to pay 20 cents more a hundred than Swift & Co., but they told that man they would not take his bid unless he made it 25 cents more than Swift's.

Mr. ROGERS. I would think that was mistreatment.

Mr. TINCHER. And if that condition existed on your yards before Mr. Wells came there that condition was deplorable.

Mr. ROGERS. Mr. Wells has not corrected any such condition at all. He has nothing to do with that kind of supervision at all.

Mr. TINCHER. The Government ought to get into it then.

Mr. ROGERS. The improvement there is because we have nore competition to-day than we used to have.

Mr. CLARKE. Do you think that the law of the State of Minnesota has had anything to do with improvement in conditions?

Mr. ROGERS. No, sir.

Mr. CLARKE. Was the improvement in conditions prior to the passage of the law?

Mr. ROGERS. Yes, sir.

Mr. CLARKE. And before the agitation for the passage of a law?

Mr. ROGERS. Yes, sir. We build the market up from fifth to fourth place before Mr. Wells came there.

Mr. KINCHELOE. Mr. Wells said the scales were out of fix.

Mr. ROGERS. Mistakes will sometimes occur in weighing, and there have been just as many since he came there as before.

Mr. JONES. How about breaks in scales?

Mr. ROGERS. I took a letter to Mr. Wells not over a month ago that said it was thought some mistake had been made, and they examined the scales thoroughly. They did not find any mistake, but the shipper thought there was a mistake about the weighing. We have complants about weights and about shrinkage.

Mr. TINCHER. Do you think that legislation should be confined to the stockyards?

Mr. ROGERS. We have no objection to Federal supervision. We do not have any objection to proper State supervision, and the only objection we have to it as it is now is that there is too much politics in it, and it is costing the shippers of stock to South St. Paul about $75,000 a year when it should not cost them over, say, $5,000 or $10,000 for what they are doing.

Mr. TINCHER. The man who just left the stand represents a packing company, and he says this supervision is giving your stockyards a good reputation among shippers.

Mr. ROGERS. He said it was hearsay evidence that some people have more confidence in the market. I do not think it hurts the market. I do not think Mr. Wells has hurt the market at all, except

he is going out and claiming a lot of things for the market that are not true.

Mr. KINCHELOE. If that expense of $75,000 is unnecessary it should hurt the market.

Mr. ROGERS. I can tell you where it is unnecessary. I can get you three shippers to the stockyards to oppose this legislation where he can get one in favor of it.

Mr. KINCHELOE. And the business there has grown in spite of that.

Mr. ROGERS. No, sir; we had less receipts in 1920 than we had in 1919. But I do not attribute that to Mr. Wells's supervision. I do not think he drove anyone away particularly.

Mr. KINCHELOE. What was the cause of it?

Mr. ROGERS. Natural conditions.

Mr. KINCHELOE. Then you do not attribute that loss of business to the law and to the expense of $75,000?

Mr. ROGERS. No, sir; I do not altogether, but it may have had some effect on it, but I would not say it did. Here is where our shippers are being discriminated against. There is a charge of 2 cents on every head of cattle weighed. If they are weighed five or six times it costs 2 cents each time. The speculators have to pay it every time they are weighed for them. And there is a cent and a half for every hog and a cent for every sheep. That will amount to more than Mr. Wells said on the receipts we had there last year. It is a considerable amount, $60,000 as he said, but it amounts to more than that. Just consider the amount he is paying the weighmasters. The same yardage is being charged us that was always charged us before he came there. So this $75,000 is in addition to what the shipper had to pay to get the stock weighed before Mr. Wells came there.

Mr. KINCHELOE. How about the dockers?

Mr. ROGERS. I do not think he understands what they are. When Mr. Wells came there the exchange took out 15 cents a head for each hog coming through, and hired shrinkers for piggy sows and stags. The piggy sows were shrunk as they came off the scales and marked on the ticket. We turned that over to Mr. Wells. He was the supervisor and we passed it to him. He talked about a hog being shrunk as if a hog was not—I don't believe he understands it——

Mr. TINCHER (interposing). Oh, well, there were some ladies here and he did not want to talk plainly. He said the hogs that were shrunk were stags and piggy sows.

Mr. ROGERS. Yes, sir; and he has the same dockers exactly that we had for the exchange.

Mr. TINCHER. You took 15 cents a head on all hogs?

Mr. ROGERS. Yes, sir.

Mr. LIGHTFOOT. Don't you mean 15 cents a car instead of a head?

Mr. ROGERS. Well, I did mean 15 cents a car.

Mr. LIGHTFOOT. I thought you had misstated that and wanted to make it clear.

Mr. ROGERS. Yes, sir.

Mr. KINCHELOE. Let me ask you for information: Mr. Wells is there as the representative of the State of Minnesota by reason of the State law. He ought to be as a general proposition entirely disinterested because he does not owe his job to anybody except the State. What would actuate him to be prejudiced against you or

anybody else, or to make a statement that those stockyard conditions have improved and that the business has grown except that it was a fact? Why should he be prejudiced in the matter?

Mr. ROGERS. Because the live-stock exchange passed resolutions, when they put in this charge of 2 cents a head, as an unnecessary burden on the shippers and it should not be done. That was one thing that made him mad at us I think, or irritated him, because we passed that resolution. We figured that if the State wanted this regulation set up it ought to pay it out of the general taxes instead of charging it up to the cattle.

Mr. KINCHELOE. Mr. Wells was not responsible for that law, was he?

Mr. ROGERS. He was responsible for that provision. It was put in effect by the railroad and warehouse commission. The law of the State did not put that charge on, but the commission put it on after Mr. Wells went in there.

Mr. KINCHELOE. It was left to the discretion of the commission?

Mr. ROGERS. Yes, sir. It was not in the law, unless it was put in at the last legislature. He put it in as an arbitrary charge against the shipper.

Mr. KINCHELOE. Do you claim that if these laws had not been passed your stockyards would have grown more than they have?

Mr. ROGERS. No, sir. I would not claim that. I would say that in spite of the law we would probably have had less cattle and hogs last year than the year before.

Mr. KINCHELOE. It looks like the shippers are pretty well satisfied.

Mr. ROGERS. Some are not on account of this charge.

Mr. KINCHELOE. You may have an individual complaint here and there.

Mr. ROGERS. Some are satisfied to pay it because they like to have State weighmasters. But they have the same weighmasters that the stockyards company had before. And those weighmasters are doing nothing for a great part of the time, and when the stockyards company had them they could use them for other work. Now they can not use them in any other work, so that 35 or 40 men are lying around doing nothing half the time.

Mr. KINCHELOE. Did you go back to trough feeding before Mr. Wells came there?

Mr. ROGERS. I think we did.

Mr. KINCHELOE. You do not complain of the law on account of that?

Mr. ROGERS. No; we do not complain of that. But we do complain about Mr. Wells claiming certain things he has not done. He is making statements all over the country in order to stand in with the shippers that he has saved them hundreds of thousands of dollars in feed charges. I make the statement that the stockyards company has made more money since Mr. Wells has been there than before.

Mr. TEN EYCK. Isn't Mr. Wells a booster for your stockyards up there?

Mr. ROGERS. I do not think he is when he says things were in a deplorable condition and that the scales were rotting down.

Mr. TEN EYCK. He says they were but now are corrected.

Mr. ROGERS. They are no more corrected now than they always have been.

Mr. TEN EYCK. Is this feeling between you and Mr. Wells jealousy or emulation?

Mr. ROGERS. Emulation, probably.

Mr. KINCHELOE. Have you made more money since Mr. Wells came there?

Mr. ROGERS. No, sir; we have had less stock since Mr. Wells has been there than before.

Mr. TEN EYCK. Referring to Mr. Tincher's case here of discrimination in selling by commission men on your stockyards several years ago: If to-day there were a case of that sort to happen and it was reported to Mr. Wells will you kindly tell us just what would be done?

Mr. ROGERS. Well, sir, I can not tell you what would happen.

Mr. TEN EYCK. Are you familiar with the operation of your stockyards?

Mr. ROGERS. Yes, sir; very familiar. Mr. Wells has not done anything since he has been there to correct any evils that exist.

Mr. TEN EYCK. I am asking you what would happen, not what he has done. What would happen if such a case were reported to him to-day?

Mr. ROGERS. I suppose he would take it under consideration, and probably would call in the guilty parties and talk the matter over with them, and that is about all.

Mr. TEN EYCK. In other words, he would not do anything about it?

Mr. ROGERS. I think Mr. Wells would not do anything. But I think if that sort of thing would happen and a charge were made to the exchange somebody would be fined or suspended. We have suspended two or three people since Mr. Wells has been there.

The CHAIRMAN. Have you expelled anybody at his suggestion?

Mr. ROGERS. No, sir.

The CHAIRMAN. On your own motion?

Mr. ROGERS. Under their own volition and motion.

Mr. PURNELL. Which one of you is correct about the cost? Mr. Wells said the cost was $60,000 and you say it is $75,000?

Mr. ROGERS. I say $75,000 or more, and I think I am correct.

Mr. MCLAUGHLIN of Nebraska. Is it untrue that the scales in the stockyards before State supervision came around were equipped with 10-pound brakes?

Mr. JONES. And how about another scale?

Mr. ROGERS. Oh, I am glad you spoke about that. They did put in a scales after he came there that would weigh I think down to 1 pound. They put a small scales down in the sheep yard. That is the only scales I have known that any small cattle—well, no cattle have ever been weighed on them but sheep. That was put in for the convenience of the people who handle a few sheep only. That was put in so that they might weigh a few sheep on them instead of weighing them on the other scales and having to wait in the sheep alley. We didn't have but one scales and those scales were put in to weigh a smaller draft on. He spoke of veal calves being weighed. I have never known any to be weighed since he came there.

Mr. PURNELL. There have been no repairs to scales nor changes made since he came there?

Mr. ROGERS. Yes, sir; there have been some changes made as to some of the old scales. They were so the weighmaster could not see very plainly. The weighmaster could, but the man standing back weighing could not see all the way through.

Mr. TINCHER. You spoke about the weighmasters being used for other work. I suppose a man could leave his cattle in the alley until the weighmaster got back?

Mr. ROGERS. Oh, no. You know sometimes weighmasters will be busy all day, and on other days they will be busy only a short time.

Mr. KINCHELOE. Who pays the weighmasters?

Mr. ROGERS. Mr. Wells pays them.

Mr. KINCHELOE. It comes out of the State?

Mr. ROGERS. No, sir; out of the shippers. I think the shippers should not have to pay all that unnecessary expense.

Mr. KINCHELOE. How about the stockyards?

Mr. ROGERS. The stockyards charge 35 cents a head for yardage of cattle and that included the weighing. Now they charge 35 cents a head for yardage, and still the shipper has to pay 2 cents a head for weighing.

Mr. PURNELL. I do not think this is very important. It does not refer to this legislation.

Mr. WILLIAMS. No; and I do not consider Mr. Wells's testimony very important. He did not address himself to the proposed legislation.

Mr. ROGERS. He came down here to get this bill amended.

Mr. WILLIAMS. To exempt the South St. Paul stockyards.

Mr. ROGERS. I want to say this, that the South St. Paul livestock exchange does not want to be exempted from Federal legislation if you pass any.

Mr. TINCHER. You need not worry about that.

Mr. ROGERS. We do not believe in Federal regulation, but if you want supervision I do not know but what it might be a good thing.

Mr. TINCHER. I think it is safe to tell you that you need not worry on that point.

Mr. ROGERS. I want to read into the record just this thing and I will not keep you any longer. After I left there was a telegram sent by our exchange to this effect:

SOUTH ST. PAUL, MINN.

EVERETT C. BROWN,
New Willard Hotel, Washington, D. C.:

The South St. Paul Live Stock Exchange is opposed to Federal legislation class in character and unnecessary as our exchange has always exerted regulatory measures for protection and interest of producers with all the effect of law excepting one particular, that being the entire examination of members' private records. Though we have no objection whatever to such law, impress caution and careful consideration on the part of Agricultural Committee, as hasty, inconsiderate action at this time when we are seriously affected financially would be ruinous to us and damaging to our patrons, whose present condition is deplorable, and our appeal to Congress would be to help rather than hamper by continued agitation. Peculiar Minnesota politics assisting job-seeking politicians working for personal gain or political preferment are lacking the desire for general good. We are now contesting State laws inspired and enacted by influence of such men who ask Congress to except Minnesota markets and leave to their control. Will abide by Federal laws if passed, we hope without emasculation or amendment, to suit some job hunters, one of whom is now in the Capital and whom we understand is to be appointed on our State railway commission.

Mr. KINCHELOE. You would rather be under a Federal law than under the Minnesota State law?

Mr. ROGERS. Yes, sir; exactly. The Minnesota law has been a farce.

Mr. KINCHELOE. Of the two evils you would take the lesser?

Mr. ROGERS. Yes, sir. And I just want to tell you one more thing about Mr. Wells, what brought about the first clash between the live-stock exchange and Mr. Wells. It was not more than a month ago that Mr. Wells issued a circular saying he had saved the shippers a whole lot of money in the feed business, in hay and corn bills. We claim that he has never saved them a cent. At the same time that he issued that circular he entered into an agreement with the stockyards company, in order to get more money to run his bureau with, that he would allow them to raise the price of corn 10 cents a bushel to shippers if they would give him 50 cents a car for every car that came in. Now, that was not robbing anybody, because he had to have money, but it was camouflage. He was trying to make the shippers believe he was saving them money, and yet he was allowing the stockyards company to charge more for corn and taking a part of the extra charge. I do not believe we should have that sort of thing.

Mr. TINCHER. Those gentlemen who were here recommended Mr. Wells very highly. Mr. Sullivan did.

Mr. ROGERS. Mr. Wells is all right; he and I are good friends, but we fight now and then.

Mr. KINCHELOE. Would you mind saying who this worthy man is whom you intimate is expecting to get a job?

Mr. ROGERS. Mr. Wells is trying to get on the railroad and warehouse commission.

Mr. TINCHER. The man I referred to was Mr. Sullivan.

Mr. ROGERS. Mr. Sullivan is one of the best orators and best politicians in the State. But we want to be taken out of that box. We are doing a business around $200,000,000 a year. We know that the live stock exchange can correct these evils better than State supervision; and still we do not fear State supervision if they will give us a square deal.

Mr. KINCHELOE. Does Mr. Wells want a job under this law?

Mr. ROGERS. Mr. Wells is now supervisor and the general opinion is that he is trying to get on the Railroad and Warehouse Commission of Minnesota.

Mr. KINCHELOE. He is trying to get your stockyards exempted from this law.

Mr. ROGERS. And if he landed on this railroad and warehouse commission we would be under him, and we are under him now, as he is an appointee of the railroad and warehouse commission.

Mr. KINCHELOE. And you do not want to add insult to injury?

Mr. ROGERS. We do not want to be under Mr. Wells or under the railroad and warehouse commission if they are to make a political football of us. I think that 60 per cent ot 75 per cent of the honest-to-God shippers will take the same view.

Mr. TINCHER. You passed a grain futures act, but we did not exempt Minnesota from our bill, and we are going to keep you in the Union.

Mr. ROGERS. They passed two laws that will knock our exchange out of the box, and Mr. Wells helped them.

Mr. TINCHER. And there was a fellow that came here who said he put a dagger, section 3, into the law and killed the whole thing.

Mr. ROGERS. Probably I have gotten off this bill quite a good deal. If there are any questions you gentlemen want to ask me, I will try to answer them as well as I can.

Mr. VOIGT. Mr. Tincher cited some cases where men were told that they would have to pay a quarter more in order to get certain stock. Since Mr. Wells has been in charge, have you heard of any such case?

Mr. ROGERS. No; and I never did hear of any such case. I have never heard of any cases since or before. As I stated, a good many years ago, when we did not have as much competition as we have now, we had some buyers up there, and they were buyers for Swift & Co., too, and one or two buyers would occasionally try to bulldoze some weak-kneed commission man.

Mr. JONES. Did any of those men ever complain to you about that?

Mr. ROGERS. No, sir.

Mr. JONES. If they came to others, it looks like they would have said something to you.

Mr. ROGERS. If they had any grievance they ought to have brought it before the exchange. We have a committee for just such purpose—to investigate any charge of wrongdoing, or wrong handling of any customer, whether a member of the exchange or not.

Mr. JONES. They knew about this grievance committee, did they not; or it is a matter of general information?

Mr. ROGERS. I think so. I know that Mr. McGoon did.

Mr. TINCHER. Those were independent packers in 1918 and are probably bankrupt now.

Mr. ROGERS. Mr. McGoon used to be a pretty big shipper in there. Lots of times he would speak when he did not have any reason. He would go to Chicago and not get any more, and he was naturally sore, and of course would blame Swift's buyers, because a good many years ago we did not have many butcher buyers, not many buyers except Swift & Co. and speculators, and he would take a chance on going somewhere else.

Mr. TINCHER. This is all since Armour has been there?

Mr. WILSON. Armour & Co. have only been there about a year and a half or two years.

Mr. ROGERS. And Mr. McGoon has not been there for five years, I think.

Mr. TINCHER. He says he had to quit. Do you know about Dickey—J. E. Dickey?

Mr. ROGERS. No, sir.

Mr. TINCHER. He says:

A Swift buyer comes up and makes an offer of 7 cents a pound, or, rather, says he thinks they are worth that and he will let him know later if he wants to take them. Until he hears from the buyer again the commission man will not entertain a bid from anyone else of 10 or 20 cents more. If he does he is likely not to get any Swift business for a while. It is only when the other bid is 25 cents a hundred higher than the Swift tentative offer that the broker feels he can accept without incurring the Swift displeasure.

I do not know Mr. Dickey; do you know him?

Mr. ROGERS. I know McGoon, and Decker Bros. at Mason City. Mr. Hormel has been buying for several years, and we have sold him lots of cattle, and so have others. Our firm has gone two or three weeks without selling a hoof of cattle to Swift or Armour either, and then may have a big run of cattle.

Mr. TINCHER. Do you know Mr. Gehrman?
Mr. ROGERS. No, sir.
Mr. TINCHER. You know Wells and McGoon?
Mr. ROGERS. Yes, sir.
Mr. GERNERD. Where does he come from?
Mr. ROGERS. Mr. Wells comes from the western part of the State.
Mr. GERNERD. He is a native of Minnesota?
Mr. ROGERS. Yes; he has held political offices for a good many years.
Mr. GERNERD. You do not think that is to a man's discredit, do you?
Mr. ROGERS. No, sir. But I think they are as a rule, maybe, poor business men.
Mr. MCLAUGHLIN of Nebraska. With reference to Mr. Wells's statement that before State supervision began, 75-pound bales of hay were being sold for 100 pounds and since that time the hay has been weighed out; what have you to say?
Mr. ROGERS. I am glad you mentioned that. To my past knowledge it is not true. For many years the stockyards company would take a carload of hay and they would weigh the whole car and count the bales and average the weight of that carload and sell to a commission man at so much a bale, at what the average was in that car. Later on, and before Mr. Wells came there, they would weigh a wagonload of hay and bring it to our pens and deliver it to us at the average weight of bales on the wagon. The way we then handled the hay and corn business in South St. Paul as it is brought to the commission man's alley—well, the corn we would put in the locker. It is all in 100-pound sacks, and had been for years before Mr. Wells came there. The hay was weighed and taken to the alley and put on the fence. The shipper would come along and we would feed a bale of hay to his stock and charge it to him. The bookkeeper would call up the office and ask what the hay averaged, and they would tell him, probably 70 to 75 pounds to the bale, never 100 pounds.
Mr. MCLAUGHLIN of Nebraska. Mr. Wells did not tell the truth about anything here, did he?
Mr. ROGERS. I can not see much in his testimony but what the impression given is wrong. I do not think he meant to tell untruths, but he tried to give the impression that his coming there had improved those yards.
Mr. MCLAUGHLIN of Nebraska. Nevertheless you are good friends?
Mr. ROGERS. We are good friends, and we scrap right often when we meet, and I tell him just what I think.
Mr. BROWN. In the matter of the names Mr. Tincher has read of persons who have complained of irregularities, isn't it a fact that during the year 1918 there would be 30,000 or 40,000 shippers in the South St. Paul market, and yet here are only five men.
Mr. ROGERS. I think it would average more shippers than that.
Mr. BROWN. Well, I was guessing at it. The percentage is not one-tenth of 1 per cent.
Mr. TINCHER. Do you mean that we ought not to pay any attention to this until we get all of the 30,000 or 40,000 shippers?
Mr. BROWN. No. But I mean that is the percentage of complaints on a large live-stock market.
Mr. TINCHER. No; I do not think that is a fair proposition at all.

Mr. CREIGH. I think that is one of the Heney ex parte proceedings. I think it perfectly natural that some shipper might have been jumping on a commission man because he did not think he got as much as he wanted, and yet as far as those proceedings are concerned Swift & Co. had no right in those proceedings and could not protect themselves.

Mr. TINCHER. I am talking about a commission man who ran the business in that way.

Mr. CREIGH. If you are theorizing that the commission man is doing that, why, that is different.

Mr. TINCHER. If a commission man would tell that kind of story?

Mr. CREIGH. Suppose it is untrue?

Mr. TINCHER. Then he ought to be thrown out of the exchange.

Mr. CREIGH. That is a theory proposition. But I want you to discredit it a little bit because it was an ex parte proceeding.

Mr. WILLIAMS. Did the Federal Trade Commission refuse the packers permission to offer any evidence?

Mr. CREIGH. Absolutely.

Mr. TINCHER. Did not the packers refuse to let the Federal Trade Commission have any records?

Mr. CREIGH. Cudahy did not. We had inspectors in our offices going over the records for I do not know how many months. We sent down carloads. Instead of taking letters as a whole they would pick out certain paragraphs. If you will notice on one page of a letter you had to-day the commission admits that its own investigator wrote certain figures on the letter and it got in as being on the basis of certain percentages.

Mr. JONES. When they got those things didn't they ask somebody about them?

Mr. CREIGH. We do not know who they asked, but they did not ask us.

Mr. CLARKE. Was information furnished by your employees during that time and all the time?

Mr. CREIGH. Absolutely everything that was asked for.

Mr. TINCHER. I did not think you would go into that. That is true, but that is not the whole situation. Didn't they get some records without your turning them over to them? Wasn't there considerable trouble about the Federal Trade Commission going into the packers' records in Chicago?

Mr. VOIGT. Wasn't there some trouble about opening Mr. Veeder's vault?

Mr. VEEDER. I will be happy to tell you about that.

Mr. VOIGT. I read statements about both sides of it at one time.

Mr. CLARKE. I have not read it and would like to know about it.

Mr. VEEDER. In the first place, Mr. Colver himself admitted before the House Committee on Interstate and Foreign Commerce that the hearings that were held were ex parte, and that the packers were not permitted to cross-examine witnesses produced by the Federal Trade Commission and examined by Mr. Heney, nor to produce witnesses of their own. Mr. Colver himself is on record in the printed report of the proceedings before the Committee on Interstate and Foreign Commerce of the House of Representatives to that effect.

One of the first hearings that Mr. Heney held was in Boston. At that hearing he announced, for the benefit he said of the press, that it

was not to be a public hearing, and that it would be ex parte, and that no one would be permitted to be represented by counsel to cross-examine witnesses or to bring any witnesses of their own.

Mr. CLARKE. Is that in this record?

Mr. VEEDER. Yes, sir; at the hearings held last September.

Mr. TINCHER. This record you have, Mr. Clarke, is not a part of the Heney hearings.

Mr. VEEDER. Yes; that is a part of the Heney hearings taken at St. Paul.

Now, Mr. Chairman and gentlemen of the committee, as this matter has been brought up I would like to explain things. When that investigation was announced and before the President wrote his letter in February, 1917, I personally and other packers went to Mr. Hurley, then chairman of the Federal Trade Commission, and stated that we would be very glad to open our books and papers without respect to interstate commerce, and we hoped there would be something constructive brought out of such investigation if it ever came.

As I have said, the President had not then written his letter but it had been talked about. When the President wrote his letter, Mr. Swift, president of Swift & Co.—and when I speak I speak for Swift & Co., but I think the others did the same thing, but of course I know what Swift & Co. did—Mr. Swift wrote to the chairman of the Federal Trade Commission and said the books and papers of Swift & Co. were open and that we would welcome an investigation and be glad to do what we could to help in it.

Mr. Swift sent a copy of that letter to President Wilson likewise. When the investigation came on they went into our files and saw every piece of paper and every record in the packing houses and in the branch houses. They picked out such letters and such parts of letters as they desired to use, and suppressed such letters and parts of letters as they did not like the looks of.

Mr. CLARKE. Do you mean to say that they would not take the whole letter?

Mr. VEEDER. No, sir; in some cases they would take parts of letters and suppress other parts.

Mr. VOIGT. I particularly had reference to the matter about your vault.

Mr. VEEDER. All right, I was coming to that. So far as my vault is concerned, after the investigation had been going on for something like eight months or a year, and the thing lasted about two years; and after they had failed to find anything—well, I believe I am stumbling over my dates. Let me start back and get it chronologically.

After the investigation had proceeded for some months at the packing houses, and they had had the Heney hearings all around the country—and, by the way, let me explain as I go along, that at the hearing in Chicago which Mr. Heney held, one of the attorneys for one of the packers sent a stenographer to take notes of the hearing. Mr. Heney asked him who he represented, and he named one of the attorneys for one of the packers. Mr. Heney said he must get out of the room, that he would not be permitted to stay there and take notes of the hearing. Mr. Heney admitted that fact at the time I was on the stand before the Senate Committee on Agriculture; he himself admitted it when I charged him with it.

So far as my vault was concerned, after the hearing had been going on for some time, one of Mr. Heney's assistants, Mr. McIsaac, asked me to show him the papers in my vault; saying that I was counsel for Swift & Co., and he wanted to see them.

I stated to Mr. McIsaac that he was entitled to see any papers relating to Swift & Co., but that he was not entitled to see any papers that belonged to my personal clients or papers that did not come within the scope of the packing industry. I said to him that I would permit an examiner to glance at every paper he desired to see in order to convince him that I was not keeping from him papers he was entitled to see, and that if there was any document or paper as to which there might come a disagreement as between him and me as to what papers he was entitled to see and use, then he could go to the court and get an order from the court under the Federal Trade Commission act and the court could decide whether the paper came under that law or not.

Mr. McIsaac was there all day. I was with him all morning. After I went to lunch he began to take papers that had no reference to the packing industry and that he had no right to have, and my assistant took them away from him.

That next morning he brought an assiatant with him, I suddenly felt that Mr. McIsaac had left the room, and I asked the examiner where he was, and he said he had just stepped out to the toilet but that he would be right back. I went out, too, and as I went out I saw Mr. McIsaac in my vault making a general search. I told him to get out and he got out.

He continued the general search, but he wired Mr. Heney that I would not give him some papers. Mr. Heney notified the commission in Washington that I had refused admission to his assistant to my vault; that in that vault were all the papers that would show a conspiracy among the packers in restraint of trade; that he had not yet seen any of them, but knew they were there; and that he would close the hearing in Washington and come to Chicago.

A couple of days later he came to Chicago, and he came to my office. This was on a Monday, and we sat around the office with our overcoats on. Mr. Heney said he wanted to make an examination of the papers, and I repeated what I had said to Mr. McIsaac. Mr. Heney said he would like to see some papers, and I showed him some he was entitled to, regarding Swift & Co. He said he could not conduct the examination under those circumstances and left the office.

The next day Mr. Heney, with a large force of deputy marshals and investigators, came in with a search warrant signed by Judge Landis, and began to go into the vault and put my papers and documents in suit cases and prepared to take them off. I sent an assistant over to Judge Landis and got a stay order until we could be heard.

I might explain that the search warrant had been issued on an affidavit that did not state anything as a fact at all. He said that it was believed there were papers at a certain address which had been used to commit a felony. He had one of the files marked "Judge Landis," and another file marked "Supreme Court reports," and another one in reference to a church. He had a list of everything under the sun. The idea that papers under those titles had been used to commit a felony!

And this search warrant had been issued under the espionage act, not under the Federal trade act. Judge Landis granted a stay, and a few weeks later he held that the search warrant was good. Now, this was a search warrant, based upon information and belief; describing all the papers in my files without anything but an index.

They were my files which had been opened some 30 years before. There was no limitation whatever. He took in wills of my clients, and everything we had in the office.

We appealed to the circuit court of appeals in Chicago, and the circuit court held that the search warrant was entirely unjustified; and, by the way, that decision is a very interesting one. It even went back to the dagger with which Brutus killed Caesar, and discussed that. The Government then asked for a writ of certiorari to the Supreme Court, and it was granted.

About two weeks later a Mr. Chantland, who had become chief counsel in the place of Mr. Heney, came to my office. Mr. Chantland wanted to know if my original offer made to the Federal Trade Commission was still open. to see what papers they were entitled to see. I said it was, and that I would be glad to give them what they were entitled to. I said to him, as I had said before to Mr. McIsaac and Mr. Heney:

Although you are not entitled to an inspection of the papers at all that you are not entitled to have, I will let you see every paper in this office for a sufficient inspection to see that it does not relate to the subject you have in mind, but I will not let you examine it and read it carefully, or copy it, if in my judgment it is not a paper you are entitled to. If you are dissatisfied with that then you can step right over to the court under the Federal Trade Commission act and ask for a subpœna duces tecum, and we will take the papers over before Judge Landis, or any other judge, and he will decide it, and he is the proper party to decide.

He said, "All right." He added, "Fine and dandy." They started in, and had six examiners at work for six weeks and I would let them see everything they wanted to see.

At the end of that time they were satisfied. They said there was not much that they wanted, and they took a copy of about half a dozen letters.

About two weeks later they came back and wanted to have another inspection, with another set of examiners. At that time they spent another three weeks there examining the papers that the previous examiners had examined, and marked with their initials—for the purpose of seeing whether the previous examiners had been honest.

Mr. CLARKE. For what purpose?

Mr. VEEDER. For the purpose of seeing whether the previous examiners had been honest. When they got through that was all there was to it.

Now, let me say this: Before Mr. McIsaac telegraphed Mr. Heney, at Washington, that I had refused access to the papers in my vault, Mr. McIsaac asked to have the vault sealed. He had no right to do that. But I said:

Here, I am not going to have any question about having taken papers out of the vault while we are discussing this matter, and you may seal it up.

And, by the way, gentlemen of the committee, it is a room a good deal larger than this room.

If I have to take any papers out of that vault I will telephone your office and you can send an examiner here and he can see the papers that are taken out or the papers that are put in.

So the vault was sealed.

When Mr. Heney came there it was several days after that interview I spoke of—well, I think it was three or four days instead of the next day. I will put it this way: I knew that Mr. Heney had come to town. But he did not come to my office. It ran along for three or four days before he came to my office, and I had to send for an inspector every time I wanted a paper.

Mr. McIsaac came up one day to let me get some papers out. I then said to him:

You said Mr. Heney would be here a week ago. I am going to open that door.

He said:

I forbid you to take the seal off that door.

I said to him:

Come on and see me do it.

I went there and threw the lock and opened the door.

Then again while the deputy marshals were there, and the examiners for the commission—and they had six men, two at a time, a marshal and an examiner. I do not know why they should have an examiner there, too, but at any rate the door was kept open, they would not permit it to be shut, and electric lights were kept going, and there was a marshal and an examiner—I suppose for fear my papers might walk out.

So I had six watchers to watch their watchers. And those four men were in my vault watching the only door to the vault, with the lights going. I offered the marshal the opportunity to change the combination and put on his own combination. He said he could not do that as I might come around through the back wall. So they insisted on being there. And that vault was in that condition for three months.

Mr. TINCHER. All those three months?

Mr. VEEDER. Yes, sir; those six watchers were in that vault, on three 8-hour shifts. There were two watchers for the Government, and two watchers for me, to watch the Government watchers.

When they got through with that they had seen every paper in that vault that they wanted. And in that connection I want to relate a little joke on them. Beyond this big vault I had a small vault, with another combination on the door. When Mr. Heney came in, of course, he got into that big vault, and then he discovered the little vault door was locked.

Mr. CLARKE. Was that before the prohibition act went into effect?

Mr. VEEDER. Well, that was not any fault of mine. I had nothing there that would cause any such procedure. When Mr. Heney discovered that little door was locked he asked me to open it. I said to him:

I am neither a Federal examiner nor a deputy marshal. You are making this search; you open it.

They sent for a burglar, but before the burglar got there, or as he was coming in with his tools, the stay order was signed and they did not get into it. But after these marshals had been curious about it, and Mr. Heney himself had said, when he did not find what he was looking for outside, that it must be in that vault, I said:

I have shown you everything, and there is only one place I know of where we might have the beef trust.

They said they wanted to see that vault. I opened it, and there was not a scrap of paper in there. It was a little extra space where there was a dead end, and I asked the building people if I could have it, and they gave it to me. I have never yet been forced to use it.

Mr. TINCHER. You have not been at home enough lately to use it?

Mr. VEEDER. No; I have spent the most of my time down here either before this committee or before the Senate committee.

Mr. LIGHTFOOT. While you are on the subject, will you not state about the investigation?

Mr. VEEDER. In those investigations Mr. Heney, who was the chief counsel for the Federal Trade Commission, would have an examiner who would sit as judge presiding. Heney would take up letters which the Federal Trade Commission already had and which had been turned over to them, and he would read them into the record, and then he would make comments upon them to suit himself, his own conclusions, and would turn them over to the newspaper men, and the newspaper men would turn them back to the official stenographer to be placed in the official record. I accused Mr. Heney of that over in the Senate hearing and he admitted it.

On another occasion there was another hearing in another room of the Federal building at Chicago near the room where Mr. Heney was holding his hearing, the other hearing being before Judge Alschuler on the question of wages. Mr. Heney read into the hearing a list of officers of Swift & Co. and their salaries, that the Federal Trade Commission had taken from the files of Swift & Co., and then handed the document or sent it to Mr. Walsh, attorney for the labor union, so he could read it into their record. When I complained of that at the hearing over in the Senate, when Mr. Heney was examining me, he admitted it, and said he thought it was proper to have private papers read for public good, and he had allowed them to be read into a private record, or, I mean private litigation, although the statutes forbade it. He said that he considered his hearing, which he was holding, had made the records public by his reading them, and that he sent them over to be used against us in the other litigation.

Likewise, there was a provision in the Federal Trade Commission act forbidding examiners to take original papers. Or, let me make it conversely. Examiners have the right to examine and copy but not the right to take original papers. We are still short some number of original papers that were taken during that time, which the examiners insisted on taking and dared our employees to take away from them by force. Rather than have a fight right there the employees let them take the papers, and they still have them.

Here is the statement that Mr. Heney made at Boston, which was one of the first hearings, maybe the second hearing, and they lasted about two months, or I think three months in different parts of the country—Chicago, St. Paul, Kansas City, Washington, Omaha, Baltimore. This was at a hearing in Boston on December 28, 1917:

Commissioner MURDOCK. This meeting will come to order. This is a hearing held by the Federal Trade Commission under the direction of the President of the United States, and the authority of Congress, in an inquiry into the food products of the country, and the high cost of living.

Proceed, Mr. Heney.

Mr. HENEY. Mr. Commissioner, I should like to ask for an order at this time excluding all witnesses from the room with the exception of the witness who is being examined, following the same policy we followed in Washington at the commencement of the hearings.

Commissioner MURDOCK. That order will be made.

Mr. HENEY. I think it might be well for me to state for the benefit of the members of the press, that this investigation is not a trial in which any parties are defendants and thereby entitled to appear by attorney. It is an investigation into the economic conditions, as well as practices that may be prevailing, and it is ex parte, and while the commission will be glad to hear any witness that presents himself here, no one comes here with the right to be represented by attorneys, with the right to put on witnesses, because there is no investigation of that sort being conducted.

However, the Federal Trade Commission did have an expert attorney there to examine any witness we put on, and to examine their own witnesses, but we had no power except to come in ourselves, not to call witnesses or cross-examine the Government witnesses or to examine our own witnesses.

Mr. TINCHER. When you say they had an attorney there you mean Mr. Heney himself?

Mr. VEEDER. Yes. Of course we began to complain of the proceedings at once. I wrote a letter to Mr. Davies, who was then chairman of the Federal Trade Commission, reminding him of his promise to me personally, the same promise Mr. Hurley had made, that the packers would not be held up to public opprobrium in the press until they had had a chance to be heard. I wrote to Mr. Davies complaining about the press reports that were coming out about the packers about which we knew nothing until we saw them in the papers. I received a reply from Mr. Davies that Mr. Heney was in charge of the investigation and that we should take up everything with him. That was from the chairman of the commission.

When we found it was futile to appeal to the commission we appealed to the President of the United States. We wrote him several letters setting out the way the proceedings were being conducted, and in those letters we asked that they be properly conducted.

When the original summary was issued it was found by us to be full of errors, and we wrote Mr. Colver calling attention to the fact that it was erroneous, that we had not had an opportunity to be heard, and that we believed if we could go over the data which he had with their examiners that it would result in a correct report which would be of benefit to the industry, and that a false report, such as he putting out, would be a very serious injury to the packing industry.

We received a letter from the chairman of the Federal Trade Commission in which he said that if it was advisable for us to be heard we would be advised. That was the reply. We never did have an opportunity to go before the Federal Trade Commission to offer to explain what they had done or to explain letters and papers they had taken.

I have in my hand Swift & Co.'s analysis and criticism of Part II of the Report of the Federal Trade Commission on the meat packing industry of November 25, 1918. I will be very glad if any of you are interested to see that you are furnished with copies of it, and if you have read the Federal Trade Commission's report it is only fair that you should read the reply of Swift & Co. to that report.

Mr. VOIGT. It is probable that the law may not have been exactly followed in granting that right of search, but, as a matter of fact, did the Federal Trade Commission, by reason of that illegal search, get any evidence that cuts much figure in this case?

Mr. VEEDER. No, sir; they did not get any evidence at any time or place that cut any figure in this case.

Mr. VOIGT. Is any part of the records that they took from your vault or files contained in the report of the Federal Trade Commission?

Mr. VEEDER. Oh, yes. They copied quite a number of letters that were found in my vault. Every time, however, that they copied a letter from my vault they distinguished me from the other defendants by identifying it as "from the vault of Henry Veeder," so that the public might know that they came from my vault.

Mr. VOIGT. Do you claim that there is anything erroneous in the report of the Federal Trade Commission as taken from your vault?

Mr. VEEDER. Yes, sir; the construction put upon practically every paper taken from my vault is erroneous.

Mr. VOIGT. Aside from the construction, did they furnish a correct copy of all the papers taken from your files, so far as they used them?

Mr. VEEDER. They copied them correctly and then proceeded to construe them.

Mr. VOIGT. What you are complaining about is the construction they put upon the papers taken from your files?

Mr. VEEDER. Oh, yes.

Mr. TINCHER. I do not understand what papers they got. "Exhibit 4, correspondence regarding cooperation of live-stock commission men with packers to defeat Borland resolution"; that was not from your files, was it?

Mr. VEEDER. No, sir; but they put as deliberate a misconstruction upon that as they did any of the papers taken from my files.

Mr. VOIGT. Whenever the Federal Trade Commission in its report has quoted words alleged to have come from and to be the copy of some document or letter, they have always made a correct copy, haven't they?

Mr. VEEDER. No, sir; I know of cases where they have not.

Mr. VOIGT. In any cases where they have not I would like for you specifically to point out wherein the copy is not correct.

Mr. VEEDER. Mr. Voigt, that has all been done and it is printed. You will find that in Mr. Weld's testimony and in mine. There are thousands of pages. It is all here on the table, in the report of the Senate Committee on Agriculture at a three months' hearing. And in the hearing held by this committee there was a lot of it put in.

Mr. VOIGT. I attended the hearings here and we sat here about a month or more last year, and I attended quite faithfully. I do not recall a single instance that was pointed out where there was a discrepancy that was at all material.

Mr. VEEDER. That is not what you asked for before. You asked me to point out instances where they had not correctly quoted some letter or paper. They were here charging a great industry with a great crime. They were doing it on ex-parte evidence and were drawing conclusions from that evidence. They were bound to be absolutely correct and accurate before charging this industry with that crime. I do not think we need to go into that here, but I will say this, that Mr. Creigh has in mind one instance and there are others. I know what he has in mind, and I will be glad if you want one instance to have him state it. If you want more, there is a hat full of them in that record. If you will take the two records and read them, you will find many instances. I do not know whether you wish to take up the time of this hearing for that purpose or not, but you can find them all there in the record.

Mr. TINCHER. Where is Mr. Weld?

Mr. VEEDER. He is on his way to England. And, by the way, he has gone over there to counteract the effect of the Federal Trade Commission sending these ex-parte reports to the heads of the European Governments with the suggestion that those Governments ought to get together with this Government for the purpose of suppressing this industry, this monopoly, as they spoke of it, which they are condemning upon this ex-parte evidence.

Mr. TINCHER. I inquired about Mr. Weld simply as an acquantance and through curiosity. But since you have mentioned that, do you mean that the Federal Trade Commission has officially sent that information abroad?

Mr. VEEDER. I mean that very thing, and it is in the record of the hearing of last September.

Mr. WILLIAMS. Who were they sending it to?

Mr. VEEDER. They sent a letter to the Secretary of State. With that letter they inclosed a form letter to be sent to all those countries that they named, the heads of the various countries, England, Belgium, France, etc., the whole bunch of them. They sent that with a form letter.

Mr. LIGHTFOOT. After the summary of the report of the Federal Trade Commission was issued, in which it charged that the five large packers were in combination and were a monopoly, not only in restraint of trade in this country but throughout the world, and that at a time when the Allies were depending upon this country largely for its food supplies, they said that unless something was done to curb this monopoly it would involve us in international complications with the other countries of the world, or language to that effect. That was the sense of it.

This summary contains quite a number of statements relating to our foreign business. They stated how many plants we have in foreign countries, and the volume of business we have in foreign countries. The Federal Trade Commission wrote a letter to the Secretary of State of the United States, in which it was suggested that a copy of this summary be sent to the heads of every civilized Government of the world, except Russia and Germany, and perhaps Austria. We were at war with Germany at that time. The commission inclosed a form letter to be used in the transmission, and the particular letter that was written out was, for example, addressed to the "President of Switzerland." It contained language from which I think anyone who received it would naturally assume that it was being sent at the suggestion of the President of the United States, because it said: We enclose—well, I will give it to you to-morrow morning.

Mr. TINCHER. Was that sent out by the Secretary of State?

Mr. LIGHTFOOT. Yes, sir.

Mr. TINCHER. When?

Mr. LIGHTFOOT. Immediately afterwards. It is presumed it was sent right out.

Mr. TINCHER. Secretary Hughes did not send that out, did he?

Mr. LIGHTFOOT. Oh, no, not the present Secretary of State. It was immediately after the issuance of the report, in September, 1918, I believe it was.

Senator Sherman introduced a resolution in the Senate, calling upon the Federal Trade Commission to transmit to the Senate all correspondence which they had in their records showing what activities the commission had had in relation to foreign business, especially with reference to the meat packers of this country. The Federal Trade Commission transmitted to the Senate, in response to that resolution, letters and files and documents relating to the foreign business, and in which there was a copy of this letter which they had sent to the Secretary of State, and a copy of the form letter which was to be used; and it is to be presumed of course that he sent the letters and reports as requested.

Not only did they say in that letter that he should transmit the letter directly to the heads of the Governments named, but in order to make sure that those Governments would receive these documents they stated they had forwarded two copies to the Embassies of every one of those foreign Governments located in Washington.

And I know that some of those countries received them, because one of our representatives happened to walk into the Ministry of Agriculture of Greece; he had some business with the minister, and he introduced himself, and the minister said:

Why, yes; here is a report I have of the Federal Trade Commission. I know who you are. You are one of the monopoly over there, the Meat Trust.

The minister had this copy on his desk, with certain paragraphs, blue penciled. If you will be interested in it I can give you copies of this letter which the Federal Trade Commission voluntarily transmitted to the Secretary of State for transmission directly to the head of every civilized country in the world, except three or four I think that were mentioned.

Of course this is a matter that has been gone over before, and I do not want to make attacks upon the Federal Trade Commission. However, I think it is proper that the new members of this committee should know how we have suffered, and what we have had to fight against, and why for three years we have been compelled to stand up and fight.

Mr. WILLIAMS. Senator Sherman made a speech just before the close of the last session wherein he went into the facts of our foreign trade and the effect of the dissemination of this report thereon.

Mr. TINCHER. Is there anything in the Federal Trade Commission act which would authorize the Federal Trade Commission to take such a step as that?

Mr. LIGHTFOOT. I thought the Federal Trade Commission was for the purpose of encouraging foreign business, but instead of looking after the welfare of American business and the American producer, I take it that ex parte report was sent abroad for the purpose of prejudicing American industry in foreign countries. If not, why was it sent?

Mr. CLARKE. What would be the theory behind such action by the Government officials?

Mr. LIGHTFOOT. That is a pretty big question. Why any agency of our Government would conduct an ex parte investigation, and take from our files papers and draw their own conclusions apparently along the line of preconceived ideas, is past my comprehension. And then to set to work in an attempt to injure our foreign business.

I think it was directly becase of that action that the English Government rehabilitated the food ministry in England shortly after the armistice was declared, at which time they pointed out its necessity, based upon the idea that this "great trust" controlled the meat supplies of the world, and said that because of its existence and operation it was necessary to maintain a food ministry and have one agency to buy all of the meat for consumption in England.

They sent a man over here with all the concentrated power of a single individual purchasing the total meat supplies for England, and proceeded to dictate at what price he should have those meats. That was the beginning of the decline of meat values in this country. And, to my mind, it has cost the producers of cattle in this country millions upon millions of dollars—the fact that we have had to sell through a single purchaser the meat supplies of England continuously from that time until just a short time ago. I believe they have now dissolved that ministry. We are now for the first time since the armistice beginning to reach a point where we can sell meat to more than one individual in England.

Mr. CLARKE. I have not quite clearly the date, was it before the armistice or afterwards?

Mr. LIGHTFOOT. It was the fall of 1918. It was about the time of the signing of the armistice. This matter was the subject of an investigation by the Board of Trade in England.

Mr. CLARKE. I am trying to get in my own mind the motive behind this act of the Federal Trade Commission about which you complain. Wouldn't it be that the preparation of this letter was before the signing of the armistice on the theory that they might possibly get down the price for all of those who were conducting a fight with us and for us?

Mr. LIGHTFOOT. I am sorry to say that I can not tell you what their motive was.

Mr. TINCHER. This report was not gotten out in time to have any effect on that.

Mr. LIGHTFOOT. The report was about the time of the armistice, I think. Armour bought a plant in New Zealand. I believe one has to have a license to export any meat or meat products out of New Zealand. All packing concerns that ship products out of New Zealand must have authority from some ministry established in that country. Armour went over there, thinking, I suppose, that he would transact some business from New Zealand, and bought the business there. When the report of the Federal Trade Commission came out the authorities in New Zealand took that report and accepted it as proof of the fact that Armour was a monopoly in restraint of trade, and cancelled his license and refused him permission to export anything out of New Zealand, and he has not been able to get a license since, just because they accepted this ex parte statement as proof. In other countries, especially in England, great credit is given to any report of the Government, as they should be in every case entitled to.

Mr. TINCHER. I think perhaps there are occasions when a department of the Government should make ex parte investigations.

Mr. LIGHTFOOT. But I think they should be treated as such. They probably have their purpose, and all that sort of thing, but they should be so distinctly understood. This information has gone to

foreign countries through the office of the Secretary of State of this country. The Federal Trade Commission did not presume to send it direct itself. I imagine that if you wished to reach the head of the Government, the State Department would be the natural channel it would go through.

Mr. TINCHER. I imagine if I would mail one of these to Secretary Hughes with such a request he would mail it back with his compliments.

Mr. TEN EYCK. Before this hearing closes I am going to ask that some member of the Federal Trade Commission be asked to come here and make an explanation of this.

Mr. LIGHTFOOT. I saw in looking at this letter a list of the governments to which it was sent.

Mr. WILLIAMS. It is a Senate document?

Mr. LIGHTFOOT. You can call for the same papers and find in their list where they had franked out these documents from their own office to Argentina and all South American countries where we had established plants. They had franked out these reports to those countries.

In fairness I want to state that some of these reports were sent upon request. After it was published in the newspapers, the Federal Trade Commission, no doubt received requests for this report, and in response to those requests they sent them out. Of course they could not be blamed for transmitting to any country a copy of this report where they had received a request for a copy of same. But it is very apparent from the letter it was a voluntary act on the part of the Federal Trade Commission in transmitting to the Secretary of State those copies to be sent to all the countries of the world.

Mr. TINCHER. Under all the circumstances don't you think it would be important to the whole industry if we could pass a law pretty quickly putting you under the jurisdiction of the Secretary of Agriculture or some place where you would not be unjustly treated?

Mr. LIGHTFOOT. Acting on the suggestion that some members made to-day, there may be some suggestions made along that line before you get through.

Mr. GERNERD. I think something of that kind ought to be done after all of this.

Mr. LIGHTFOOT. Let me make this one observation right here in all seriousness. The question has often been asked: Why are the packers down here fighting this legislation? Bills have been offered on the idea that we are a monopoly. If you pass a resolution with that theory in your mind it will be evidence to all foreign countries where we are trying to do business and find an outlet for the products of the farms of this country, that the allegations made by the Federal Trade Commission are true; and if the Congress of the United States, the highest legislative body in this country, acting upon such authority, passed legislation to that effect, it would lend color to the charge. I think you would certainly be lending color to that charge.

Mr. TINCHER. I think you made an awful mistake in agreeing to the consent decree instead of coming to Congress.

Mr. LIGHTFOOT. The consent decree had nothing to do with legislation.

Mr. TINCHER. You went into the consent decree by which you eliminated yourself from certain lines of business. I suppose you have agreed to do certain things that it is absolutely impossible to do.

Mr. LIGHTFOOT. That was done, as I told you before, purely to meet this public sentiment which had been created against us in our own country. It was done in good faith on our part, and we had some hope that it might satisfy the people of our country that we had no desire to secure a monopoly over the breakfast table of the American people. That was the only reason. The Attorney General could have brought a suit if he had evidence against us, and we would have taken our chances on that. But we do not get credit for what we have done. In fact, in the place of getting credit for good intentions and an attempt to meet public sentiment, nine people out of ten think we were guilty.

Mr. KINCHELOE. I think you are right about that.

Mr. VOIGT. In connection with your statement and Mr. Veeder's statement that you were so willing to be investigated, I think it is only fair to read the third paragraph from a letter of the Federal Trade Commission dated July 3, 1918, which they sent to the President transmitting the report:

The commission, through Mr. Heney, had to meet deliberate falsification of returns properly required under legal authority; we had to meet schools for witnesses where employees were coached in anticipation of their being called to testify in an investigation ordered by you and by the Congress of the United States; we had to meet a situation created by the destruction of letters and documents vital to this investigation; we had to meet a conspiracy in the preparation of answers to the lawful inquiries of the commission.

It does not seem to me that these commissioners all signing this report would willfully and wrongfully make that sort of statement in a report to the President, not unless there was something to back it up.

Mr. LIGHTFOOT. Now, that is logical, and I can see why you or any other man would take that view. Let me explain just one of those statements. What was the last one?

Mr. VOIGT. The last portion of that paragraph was:

We had to meet a conspiracy in the preparation of answers to the lawful inquiries of the commission.

Mr. LIGHTFOOT. You would gather from that that we had gotten together in order to make an improper answer.

Mr. VOIGT. I think there is a copy of a letter here that proves that allegation. Let me read a letter on page 29 of this summary and part 1. There we find a letter dated August 2, 1917. That letter is addressed to Mr. G. F. Swift, jr., and several other gentlemen:

Mr. Veeder informs me that he has at different times talked to Messrs. Thomas E. Wilson, M. W. Borders, C. J. Faulkner, James Sheehan (retained by Armour & Co. for this investigation), and Thomas Creigh, and has suggested to them that each firm prepare its own answer to the questionnaire received recently from Commissioner Davies and that when the answers had been completed we have a conference for the purpose of discussing objectionable things, if any, which might be contained in the individual reports.

What is your impression from that?

Mr. CREIGH. Let me tell you about that.

Mr. LIGHTFOOT. No; let me answer that first.

Mr. CREIGH. Here are the four questions.

Mr. LIGHTFOOT. I want to test this out.

Mr. VOIGT. I take it from this letter that you gentlemen had received a questionnaire from the Federal Trade Commission, and

that after this questionnaire arrived Mr. Veeder suggested to the various gentlemen interested that they fill out their questionnaires and have a little private meeting, as he says:

For the purpose of discussing objectionable things, if any, which might be contained in the individual reports.

In other words, if any of you made an honest report and after getting together you thought there was anything objectionable in that report, you would iron it out. I do not consider that a proper procedure.

Mr. LIGHTFOOT. That is the natural conclusion any individual citizen would draw, and I do not blame you for having that idea in your mind. I am not criticizing you for that view, but let me state the facts: When the President ordered the Federal Trade Commission to make an investigation of the packers the chairman came to Chicago and called a meeting of the packers to consider in what way they could best proceed under this request of the President to make an investigation of the packing industry. They had with them some members of the committee on markets of the American National Live Stock Association, who had started the agitation that led up to this investigation. They were in one room and the packers were in another. They did not bring them all together to confer on this matter. But they would go over and confer with them and then come and confer with the packers. After asking the packers for their opinion on that they submitted four questions for answer. They called all the packers together in joint meeting to propound those questions to them, to consider how they would divide up the work, etc., who was to investigate the packers, and who the producers and who the consumers. These are the questions:

(1) As you are aware, there is widespread complaint among consumers as to the prices of all meats and other animal food products. The commission would like your views as to the cause of present high prices, to what extent they are justified, and if in your judgment there is not complete justification for them, what factor or factors in the production of meat animals and their products can be justly criticized?

(2) The meat packer stands between the producer of meat animals on the one hand, and the retail distributor of their products on the other. In what respect, if any, does either of these three agencies, in your opinion, fail to perform its proper function in serving the ultimate consumer?

(3) In your opinion is the present vast system of conducting the meat business from the raising of the animals on the range and farm through all the steps to the table of the consumer the result of the operation of healthy, natural laws or is it in part the result of efforts, either conscious or unconscious, to interfere with the operation of such laws?

(4) What, if any, are the economic weaknesses of the existing system, and what remedies do you suggest for any existing evil?

Those are the four questions that he submitted to the joint meeting of all the packers, called by him for the purpose of eliciting that information for use in their investigation.

What did Mr. Traynor say? He wrote a letter to Mr. Swift and various other persons, to his own people, mind you, and not to other packers. He said:

Mr. Veeder informs me that he has, at different times, talked to Messrs. Thomas E. Wilson, M. W. Borders, C. J. Faulker, James Sheehan (retained by Armour & Co. for this investigation), and Thomas Creigh and has suggested to them that each firm prepare its own answer to the questionnaire received recently from Commissioner Davis and that when the answers have been completed we have a conference for the purpose of discussing objectionable things, if any, which might be contained in the individual reports.

That was merely to compare experiences of all those packers under these questions submitted to him. It was not intended to conceal anything, but to see that their data, their experience, their statistics, corresponded in order that the Government could rely upon the truth of the facts that we were to give them. That is what they say about it.

Mr. VOIGT. I do not think you have changed my mind about that.

Mr. LIGHTFOOT. May be not, but I am not quite through with it yet.

Mr. VOIGT. Each one of you was sent a questionnaire?

Mr. LIGHTFOOT. Each one was sent a questionnaire which involved economic questions. I want to show you what they did. We would have had the right to sit in conference and to have discussed over the table all the things Mr. Veeder suggests in his letter, because we were called together jointly for that purpose.

Mr. VOIGT. Right there: Was this questionnaire handed to you at this conference or sent to you by mail?

Mr. LIGHTFOOT. Well, I was not present, and I do not know.

Mr. CREIGH. At the conference it was agreed that the questions would be sent later by mail, which was done.

Mr. LIGHTFOOT. I want to call attention to this fact, that the Federal Trade Commission in the summary of its report that you have there shows the fact that we met to answer these questions as a circumstance to prove a "combination" between these packers in violation of law.

Mr. VOIGT. It does show that you were pretty closely allied when you get together to answer those questions. But what the Federal Trade Commission wanted when it sent out that questionnaire was the individual experience and observation and information from the people to whom the questionnaire was sent. And this letter states that the proposition was that you should all get together before you answered that questionnaire in order to remove anything that might be objectionable in any of your answers.

Mr. CREIGH. On the other hand, the letter says get together after the answers were prepared and check them up. I will say that as far as the answer for Cudahy is concerned we had no help in getting it up. Before I got this paper printed which Gen. Lightfoot has in his hand I came down to the Federal Trade Commission and I said:

> The packers want to get publicity and have the people understand something about the business. This may be of some benefit. Do you mind our having it gotten out by the thousands and send it out for publicity.

I am proud of that record.

Mr. VEEDER. These questions asked for opinions on matters of political economy. The purpose of that was that we should discuss the various phases of the business and economic situation, and all that was meant to do was to point out economic conditions. There was a great chance for wide variance of opinion, and we wanted to have this understandable by and of benefit to the Federal Trade Commission.

Mr. VOIGT. And that was just what the Federal Trade Commisison did not want; they wanted your individual opinions.

Mr. VEEDER. I take it they wanted our best judgment. The lawyers thought we could get better results if we each wrote out our independent judgment, and from the judgment of the five take the best judgment as to the economic situation. We got together at the request of the secretary of the committee and we were working it out to the best advantage.

Mr. KINCHELOE. Were your answers very much alike to those questions?

Mr. VEEDER. They were quite similar. As a matter of fact, I do not think we ever got together and worked it out. After each wrote up his answer we exchanged them, but I do not think we ever changed them.

Mr. KINCHELOE. They were sent in without being changed?

Mr. VEEDER. Without being materially changed.

Mr. LIGHTFOOT. The fourth question is: "What, if any, are the economic weaknesses of the existing system, and what remedies do you suggest for any existing evils?"

I can not imagine how it would be evidence of a conspiracy in restraint of trade and a circumstance to prove a monopoly if all the packers met every day in the week to discuss that question and should come to the same conclusion on it. But the Federal Trade Commission said because we did do that, in response even to a movement initiated by the chairman of the commission himself, it was one circumstance relied upon to convict us of a monopoly. And that is why the Congress now is being called upon to legislate—because we are a monopoly, for the Federal Trade Commission says we are. And that is the only excuse for the legislation asked for. Senator Kenyon, one of the most active Senators who has been behind this thing, says that that is the only excuse for it. If there is no monopoly in this industry, then the whole reason for the law fails.

Mr. TINCHER. You gentlemen have cooperated together leading up to this matter, and had fought hard a resolution that was offered in the Congress long before I came here—the Borland resolution. You had kind of let the people of the country think by that fight—and I was nothing but a layman and I know what I thought—and the correspondence that was subsequently published showed how you fought that investigation——

Mr. LIGHTFOOT (interposing). Do you know why that resolution was fought? Do you know that that resolution was predicated upon the charge, or set forth the charge, that we were a trust, a monopoly? Therefore we were——

Mr. TINCHER (interposing). Why didn't you say you were not, but that you were willing to go in and be investigated?

Mr. VEEDER. There was that resolution and there were several of them. Each one in turn charged that the packers, naming Armour & Co. and Swift & Co., and so on, were violating antitrust laws and the resolution was that they should be investigated. While this very resolution was pending in the Congress I went to Mr. Hurley and said to him:

These resolutions are pending, and the possibility is that sooner or later your commission will be asked by the Congress to make an investigation. I want to say to you right now we are not objecting to any investigation by you, but we are objecting to being named in a resolution before the Congress before a word of evidence has been taken as being violators of the law.

Mr. TINCHER. I have examined all the correspondence I can find about the fight on the Borland resolution. There is no reference in any letter that I can find of any objection to the language contained in the Borland resolution.

Mr. VEEDER. I think there are some that are not in that printed book. We fought that resolution as hard as we could because we

did not want a resolution passed charging us in advance with being criminals. But here is what we did. We invited the markets committee of the Texas Live Stock Association, which was back of this resolution, to meet us in Chicago. They met us in the office of Swift & Co. There was Mr. Lasater, and Mr. Heard, and Senator Kendrick, and Mr. Burke, and all of them. Then there was Mr. Borders, Mr. Wilson, Mr. Swift, and Mr. Walter Fisher, the attorney for the markets committee.

We discussed this matter. We told them we had no objection to an investigation, but we thought there ought to be an investigation which would take into consideration the animal from the producer to the consumer; that we would help them to put some such resolution through. They agreed, and they themselves drew the resolution to which we consented. That resolution was to be introduced into the Congress, providing for an economic investigation of the industry, with the understanding that if the evidence showed anybody had violated the law, such investigation would not be considered an immunity from prosecution. And the packers said they would expect to be prosecuted if it was found they had violated the law. It was agreed that the investigation should be made from beginning to end of the industry, and that Walter Fisher should draw the resolutiou.

The very next day after making that agreement, which they themselves drew, they got together on the Borland resolution in Washington, in which it was charged that the packers, naming them, had violated the law. We did not oppose that resolution except for the reason that it charged us in advance of violating the law; and we had told them we would help them to get a resolution which did not contain such a charge but provided for an investigation of the subject from start to finish.

Mr. VOIGT. Did you ever suggest to Mr. Borland that if he would change the form of his resolution you would favor it?

Mr. VEEDER. We told that here.

Mr. VOIGT. Did you ever say it to Mr. Borland?

Mr. CREIGH. I said then, six or seven years ago, how I felt.

Mr. VEEDER. Mr. Kendrick and Mr. Lasater, and Mr. Burke and Gov. Stubbs and no end of people were there, and Mr. Mercer was there. They know what we said.

Mr. TINCHER. At that time I was living out in Kansas and I know the thoughts of the stockmen, and I know we thought it was awfully funny that you went to the extent you did against that resolution.

Mr. VEEDER. Mr. Mercer has a copy of that agreement, because he showed it to me the last time I was here.

Mr. TINCHER. Of course, you could not be convicted of any crime by congressional resolution.

Mr. VEEDER. We were convicted before there was an investigation. We were so charged in the resolution. It is in your records, as I introduced it in the Senate hearings and you can find it there.

Mr. VOIGT. On page 30 of summary and part 1 of the report of the Federal Trade Commission I find this—

In addition to the general "combing" of the companies' files in anticipation of the investigation, attempts were made on certain occasions to abstract important documents from the files under the eyes of our agents. G. S. Sheppard, vice president of

the Cudahy Packing Co., admitted that he had ordered his stenographer to make an incorrect copy of a letter which the commission's agent had requested and had himself destroyed the document.

Mr. CREIGH. May I state the facts about that?

Mr. VOIGT. Certainly, if you know.

Mr. Creigh. I was there at the time. The examiner came and asked for the letter. In that letter there was something reflecting upon a man's personal character. I said—

That has nothing to do with the matter, and if you have no objection we will cut that out.

He said that was all right to cut it out.

Mr. TEN EYCK. I now wish to offer this motion: That the chairman call a representative of the Federal Trade Commission before this committee before closing the hearings, to advise whether or not they sent their report of the so-called packers' investigation through the Secretary of State or otherwise to foreign countries; and, if so, to advise the reason for so doing.

Mr. CLARKE. I second that motion.

Mr. TINCHER. Well, now, let us not confine it to that request. Let us have a representative of the Federal Trade Commission come down here to answer all the questions we may want to ask him.

Mr. TEN EYCK. That is all right. But we want him to come down here to answer about this particular thing.

Mr. GERNERD. I join you in that.

The CHAIRMAN. It will be for the commission to determine who they will send.

Mr. TEN EYCK. We want a member of the commission who was there at the time and who can tell us the facts about it.

The CHAIRMAN. Is that an invitation or a summons?

Mr. TEN EYCK. It can be taken as an invitation, but we mean it to have the strength of a summons. We expect a man to come here who can tell us about this.

Mr. MCLAUGHLIN of Nebraska. Of course, the Federal Trade Commission will be heard as they were before. I have been going through about 200 pages of Mr. Colver's testimony, and if the new members of this committee will take the pains to read that it will be seen that these very questions were asked Mr. Colver in the former hearings, and he has some statements in there about it. Before we pass a specific request of that kind I think we better go through the former report and see what he says.

Mr. TEN EYCK. I do not want somebody to say what somebody else has said. Let us hear him now.

Mr. JONES. Might they not think it was some other report. Hadn't you better make your motion a little more specific?

Mr. TEN EYCK. Mr. Lightfoot, how should it be specified?

Mr. LIGHTFOOT. Ask them to bring a copy of a letter which they wrote to the Secretary of State of the United States, asking him to transmit to the King of Belgium, and the Queen of Holland and the King of England and the President of Switzerland, and the President of Argentine, and so on, this report.

Mr. TEN EYCK. I want to find out where that report was sent. If they asked the Secretary of State to send it and it was not sent I would like to know that fact.

Mr. JONES. I would like to know about that letter, too.

Mr. LIGHTFOOT. Suppose you ask him to bring a copy of the form letter that they inclosed with the report to the Secretary of State.

Mr. TINCHER. Can we hear them to-morrow afternoon?

The CHAIRMAN. We will have to hear them whenever they can come.

Mr. TINCHER. Oh, no. We want to close these hearings as per our schedule.

The CHAIRMAN. Are you ready for the question? [The question was called for and unanimously carried.]

Mr. Rogers, after this brief interruption, you may continue.

Mr. ROGERS. I want to apologize for taking up so much of your time with irrelevant matters. I believe I have nothing further to say unless you have some questions to ask.

Mr. CREIGH. Will you hear Mr. Mayer?

The CHAIRMAN. We will hear Mr. Mayer next.

STATEMENT OF MR. OSCAR G. MAYER, SECRETARY AND GENERAL MANAGER OF OSCAR MAYER & CO., CHICAGO, ILL.

Mr. MAYER. Mr. Chairman and gentlemen of the committee, I am secretary and general manager of Oscar Mayer & Co., a comparatively small packing concern with plants located at Chicago, Ill., and Madison, Wis. Our business was founded about 36 years ago by my father, who is still active in the business, and was founded primarily as a distributing business supplying the smaller retail merchants and delicatessen concerns in and about Chicago with their meat products. We give them a very close business service.

Our plant is not located in the stockyards there but on the north side of the city, and our hogs are slaughtered for us in the stockyards by a company in which we have an interest.

Up to about two years ago we had only the Chicago plant. But at that time we purchased this plant at Madison, from a defunct cooperative concern, and have been operating it since on a more or less independent basis. That is, we try to market as much of the products of that plant directly out of Madison as we can, and maintain our source of supply in Chicago as it has been.

Our business amounts to between $10,000,000 and $12,000,000 a year, and of course as you can see is distinctly smaller than that of Mr. Hormel's or Mr. Taliaferro's who testified here on yesterday.

We gather our hogs for the Madison plant from the surrounding territory, and only at times when we see a shortage do we go to outside markets, in which case we generally go to Sioux City or to St. Paul. We have not had to do that very much.

We also lease a few refrigerator cars, only 10. We have found those 10 to be mightly valuable to us.

I know our business, distributing and general packing business as we conduct it, and feel that I know it fairly and thoroughly. I also feel that through 12 years' experience and having been associated with the business since childhood, I have acquired a general knowledge of the business, and it is in that sense that I am here and trying to tell you the lines along which I think the packing business should be conducted.

You must remember that the packers, being between 6,000,000 producers on the one hand and 100,000,000 consumers on the other, are between the upper and nether millstones in the matter of any fluctuation. Of course the consumers want to get the product as low as they can, and the producers want to get every cent out of the stuff they can.

The fact that we are in that situation always permits of an exaggerated opinion of the abuses which the packer is committing, and you gentlemen of the committee should not overlook that fact. You should not overlook the fact either that because we are under such constant scrutiny on all sides that it is one of the best automatic checks on abuses that any industry could possibly have. For the purpose of presenting this matter I have started with the question as to when an industry needs repressive regulation. I have named four premises.

An industry needs repressive regulation if (1) its profits are excessive, (2) if it is monopolistic—that is, controls prices or stifles competition, (3) contains corrupt practices, (4) serves the public poorly.

Now, let us examine these propositions: As to the profits of the packing business, everybody has been thoroughly imbued with the idea that packing-house profits are immense. They run from nothing up to 3 cents on a dollar of sales. During the 12 years I have been acquainted with the business they have ranged from one-third of 1 cent to a maximum of 3 cents on a dollar of sales, with an average of about 2 cents on a dollar of sales covering the 12 years. It is a well-known fact, and I suppose it has been brought out in this committee time and again, that for the last 25 years the average profit in the packing-house business has been 2½ cents on the dollar of sales.

Mr. CLARKE. How many turnovers would that be in a year?

Mr. MAYER. Of course the turnover in the packing business is dependent upon the marketing policy a plant is following. In our own business we turn over our stock pretty rapidly—from 10 to 14 times a year.

Mr. WILLIAMS. You mean 2 per cent is the whole profit on the volume of business?

Mr. MAYER. Two cents on each dollar of sales. Our net profit for the period of 12 years has been 2 cents on each dollar of sales.

Mr. TINCHER. With an average turnover of 14 times a year?

Mr. WILLIAMS. You said you had a business of about $10,000,000. What is your profit?

Mr. MAYER. About $200,000. Our business has not been $10,000,000 for all of that time. Our profits would be about $200,000 a year if we did $10,000,000 a year in business.

Mr. WILLIAMS. Net profits?

Mr. MAYER. Before dividends and taxes.

Mr. TINCHER. Two cents on each dollar of sales?

Mr. MAYER. Yes, sir.

Mr. TINCHER. If your capital has been $10,000,000 and you have made 2 cents on each dollar——

Mr. MAYER (interposing). Our inventory runs around $800,000, and if we do a business of $8,000,000 a year, that means that we turn our inventory over 10 times. Inventory versus sales.

Mr. TINCHER. You must have made about $2,000,000.

Mr. MAYER. Oh, no. It is about $200,000. I turn my inventory over about 14 times.

Mr. GERNERD. He makes $200,000 on an invested capital of $800,000.

Mr. TINCHER. I would like for him to tell me how he does it. You say you make 2 cents on each dollar of sales?

Mr. MAYER. My sales are around $10,000,000.

Mr. TINCHER. And you turn your stock over fourteen times?

Mr. MAYER. Yes, sir. That depends on how much stock I carry. Our inventory is around $800,000.

Mr. TINCHER. That furnishes me all the information I want. I can figure it out. I can tell how much profit you make on your stock, and I can do that just as well as I would from a hardware store. If I make 2 cents on a dollar of sales and turn it over fourteen times I know what it is.

Mr. MAYER. You can not figure anything more than that I turn my inventory over fourteen times, what I had in my house.

Mr. TINCHER. What is your inventory?

Mr. MAYER. Granting that my inventory is $800,000 my sales are fourteen times that, which would be $11,200,000.

Mr. TINCHER. And 2 cents on that would be what?

Mr. MAYER. $224,000.

Mr. TINCHER. And you say it is fourteen times $800,000.

Mr. MAYER. Something like that.

Mr. VOIGT. What is the use of going into a compilation of that kind. The question is what is the capital employed in your business and what is the profit.

Mr. MAYER. The actual capital of the plants is $2,500,000, and if we make $200,000 it is 8 per cent on our investment.

Mr. VOIGT. Why not say instead of 1 cent or 2 cents on a dollar of sales that it means 8 per cent?

Mr. MAYER. Because it depends on whether you are looking at it from the standpoint of the consumer or of the stockholder.

Mr. TINCHER. I think that is clear.

Mr. VEEDER. It depends up on the way you are looking at it. From the stockholder's standpoint it is one thing and from the standpoint of the buyer of meat it is another. From the standpoint of the buyer of meat it represents a profit of 2 cents on each dollar of sales. From the standpoint of the stockholder, he gets 8 per cent on his investment.

Mr. VOIGT. I think from the standpoint of the buyer of meat you are right.

Mr. MAYER. I am trying to establish that the profits in the packing business are very small. I was going to say that in no industry in the United States that any body can mention does it take so little in the way of profit from the public for its services. In fact, the profit in the packing business is such that it has absolutely no effect upon the selling price whatever. It is so small that it is negligible. It has been computed to amount to only 5 cents per week for each family of five in the United States, or about $2.60 a year. So much for the profit of the packing business.

Second. The next question to be answered is whether the packing business is monopolistic. Our packing business involves both seals and purchases, of course, and they are under my own personal obser-

vation. There is no stage of the game where we do not meet the big packers in all sorts of intense competition. And in this business it is certainly a struggle, if there ever is one, in the way of the survival of the fittest. You only have that small margin of profit; that is all you can get; and if you are not very careful in your operation that profit soon resolves itself into a loss, which runs up with surprising rapidity.

No industrial man in the country will sell stock at a loss quicker than the packer will, because the packer has to, on account of the extreme perishability of his product. He must sell it at a loss if necessary. He is not in a position to get profit for his stuff if his markets are not right. If there is a glut, or if he has bought stuff too high, he must sell that stuff. It is not a question of whether he wants to; we packers must take losses constantly and depend upon the balance of the business throughout the year to pull us through. And we never know whether it will pull us through or not.

Now, as to the matter of the buying or lack of competition on the buying side. As a matter of fact, the competition on the buying side during the past two years has been absolutely ridiculous. The packers have bid for stuff to keep their plants going and without knowing what they were going to get for the finished product. The packers have bid for the stuff on the theory that their overhead was there and had to be met, that their plants had to be kept going, and with the possibility that they could not get enough for the products to cover cost and a profit. There is no packer but what has testified to that fact by the large losses which he has shown in his schedule during the last two years.

Far from there being any collusion to suppress live stock prices, I know the history of the packing business from the standpoint of overbidding. There has been ridiculously high overbidding as compared to what the packer realized later on.

Mr. WILLIAMS. Why can not the packer get more for his product?

Mr. MAYER. It is impossible on account of the conditions in the selling end. The packer on the buying side has ignored his sales end. They have figured that they could sell this stuff when it became cured and got to the markets, and then when we got our stuff on the market we found it was not salable at 100 cents on the dollar. The sales end is to that extent distinct from the other end. It takes 60 days to cure a ham and 30 days to cure a belly, and so forth, and the time element has been important during this period of deflation.

There is another erroneous conception along the line of the packing business being monopolistic. That is, that the big packers control 80 per cent of the business. That is erroneous from start to finish.

Mr. Voigt, I would like for you to hear this. The big packers actually do only 37 per cent of the meat-packing business of this country; that was the record in 1920 according to this authoritative statement, when 100,000,000 animals were slaughtered in the United States.

Mr. CLARKE. This is all business, not just interstate business?

Mr. MAYER. Yes; but you can not make any distinction here between interstate and intrastate business, for the reason that the packer buys his stuff and when he buys it he does not know whether

he is going to sell it interstate or intrastate. And what is the difference whether it crosses the State line or not? You must take into consideration the volume of business done here.

Mr. VEEDER. All of the packers' meat is sold intrastate except a very small portion. You do not ask when you buy a steak where it came from. You buy the steak that looks good to you. It may be from a local killer, or it may have been shipped from Chicago. At any rate, the local killer is in competition in the market the same as the western shipper.

Mr. MAYER. The total number of animals slaughtered in the United States in 1920 was about 100,000,000, of which the large packers only slaughtered 37,000,000, about 37 per cent. The balance were slaughtered by the smaller packers, of which we are one, and by farm slaughterers, and so forth. So as a matter of fact there is no monopoly on the part of the big packers in the business. And I say that in defense of ourselves, because it would certainly be a bad condition if the five big packers could monopolize this business and nobody else in the United States had the acumen to get a little of this business for himself. The smaller packers are in the field, and can take the field at any time against the big packers. I am willing to do it at any time. Far from our taking a back seat, with only 14 per cent of this business, we are here to say we are doing, outside of what the country slaughterer is doing, all of this work except the 37 per cent that the five big packers do.

Mr. CLARKE. What is the source of those figures?

Mr. MAYER. The Institute of American Meat Packers. It is an institution which is certainly able to get the correct figures.

Mr. VOIGT. What figures does the institute give on the interstate slaughter?

Mr. MAYER. I have not the figures on the interstate slaughter. What do you mean by that?

Mr. VOIGT. I mean the slaughter of all animals that have passed into interstate commerce.

Mr. MAYER. The live animals that have been shipped across the State lines?

Mr. VOIGT. Yes, and that are handled by what we call the packer.

Mr. MAYER. Well, those figures of course I have not got. I really do not consider them relevant either because we can not distinguish interstate from intrastate volume of this business.

Mr. TINCHER. Mr. Chairman, I see these lights flickering. Do they go out at 12 o'clock?

The CHAIRMAN. It begins to look like it.

Mr. VOIGT. Take the man who slaughters a hog or two. All of that is included in the figures you have?

Mr. MAYER. Yes.

Mr. VOIGT. The hog or two that a man slaughters, and of course that amounts to a great many thousands in the aggregate, those animals do not enter into competition with the animals that are handled in interstate commerce. That is the difference between the total slaughter and the interstate slaughter.

Mr. VEEDER. I respectfully submit that is not correct. That decreases the amount of cattle that will be bought by the packer.

Mr. CREIGH. Mr. Taliaferro testified that in the City of Detroit, which is now a pretty large city, 62 per cent of the beef sold is local kill.

Mr. MAYER. If they are slaughtered on the farm it takes that much potential volume away from the packers.

Mr. VOIGT. That slaughter has really a remote effect upon competition. It is not a direct factor in the competition in interstate traffic in slaughtered animals?

Mr. MAYER. Let me outline a concrete instance in your own State. In our plant at Madison, Wis., we started two years ago with the idea of running car routes to distribute the products in the surrounding territory. We have been forced to give up the car-route business for the reason that the country slaughter in and around Madison was so extensive that it did not pay us to operate the car routes out of Madison.

Mr. VOIGT. You get into small communities where there are country slaughterers?

Mr. MAYER. It is a very large area. So the country slaughterer does compete with the packing house.

Mr. TINCHER. Do you know why the country slaughter is picking up? It is because a man can killa hog and then get more out of the lard than out of the whole hog.

Mr. MAYER. I have taken up this much of your time to show the committee that in my estimation there is no such thing as a monopoly in the packing business at the present time.

Third. The next division of this question is whether there are corrupt practices. The smaller packers have never been accused of any corrupt practices, and yet they are all included in this proposed legislation, some of which is of very drastic character and a distinct reflection and humiliation on the smaller packers.

Mr. CLARKE. Do you think the smaller packers have ever indulged in unfair practices?

Mr. MAYER. Not to my knowledge.

Mr. CLARKE. Human nature is pretty much the same the world over.

Mr. MAYER. From my observation at the present time, and going back over a period of 12 years, so far as the large packers are concerned I have never seen personally nor personally experienced any corrupt practice or unfair competition from them. In fact, we find in our business that the large packer is a distinct advantage to us. In the first place, they take our surplus of merchandise at times, and our lard, and our bellies, etc. They form a reservoir for the smaller packers, just as they form a reservoir for the farmers and raisers of live stock.

On the other hand, they have always sold us their products, and our relations have been very intimate, both on the buying and the selling side. For one thing we feel the need in our business for the larger packer.

As to the refrigerator cars, the idea of corrupt practices there is absolutely a myth. I do not believe the time will ever come when the railroad companies will be able to provide refrigerator cars to the packers with that high standard of sanitation which, in the first place, the Government sets up these days, and which, in the second place, the packers would set up of their own accord. These products must be handled in sanitary cars. We can not afford to have cars carry

cheese and kerosene and come back to us for the carriage of fresh meats. Even a small concern like ourselves has found it necessary to lease 10 refrigerator cars. We could not get along without them.

So, on the whole, far from corrupt practices I want to go on record as saying that no industry has developed a higher trade standard all along the line from the buying of live stock in the stockyards down to the regulations by the Chicago Board of Trade for the marketing of that product, and then the marketing of the finished product, than exist in the packing business to-day. I do not know of any industry that can be pointed to in which the trade standards have reached a higher point of perfection than in the packing business. It is a business requiring the deepest study. It is a business, strange as it may seem to some people, in which very high ideals of public service have been set up. From my acquaintance with the large packers, and I know them, they are all men who have distinctly high ideals in business and high standards of service, and require of their subordinates that they should conduct the business in the highest sort of way, to the end that the packing business shall properly and economically serve the public. No industry in the country, according to my estimation, has given a higher service than the packing industry and in that it must be said that the big packers occupy the dominating position.

The packing business has developed into a phenomenal business and in which the older men should take an immense pride. By that means stock raising has been built up. But for the technique and business management of these men this country could not have reached the point of prominence which it occupies to-day. There has been no question about that raised in this committee, I believe, but the packing business is to-day one of the most efficiently operated businesses in the world. It is, for one thing, operated at the lowest ratio of cost. There is no industry that you can point to where the operating ratio is as low as 12 per cent to 15 per cent on the dollar of sales. That is a position which has continued in the packing business for years, and in spite of the fact that costs have gone up very considerably, yet that ratio is still about the same. It is rising somewhat, of course, and we were not able to prevent that, but our operating ratio has gone up from 13 to 17 and the difference has been taken out of profits as far as I can see.

The CHAIRMAN. I understood you to say you made 8 per cent on your capital.

Mr. MAYER. Invested capital.

The CHAIRMAN. That means capital and surplus?

Mr. MAYER. Our invested capital, of course, which is capital and surplus.

The CHAIRMAN. Does that include borrowed money?

Mr. MAYER. No, sir. And at that, the packing industry to-day pays one of the highest scales of wages paid in any industry. That is a significant point that ought to be brought out.

Now, gentlemen of the committee, as for the bills pending before this committee, I having covered my four points, I will take up the McLaughlin bill. That bill of course would absolutely take the heart out of the packing business as far as I can see. It would discourage the close, personal interest necessary for the successful conduct of the business. It would take the heart out of the men

who are devoting their lives and their energies to the good of this business.

Mr. McLAUGHLIN of Nebraska. To what section do you refer?

Mr. MAYER. To the general tenor of the bill, especially the part where receiverships become very easy under charges that may be made against packing companies or their employees.

Mr. McLAUGHLIN of Nebraska. I want to call your attention, and I meant to speak of it when Mr. Creigh was on the stand, to the statement that this bill, which was the former Senate bill, meant supervision of the industry a long distance away, and it simply means that the headquarters would be here in Washington. It provides that the principal office of the commission would be in the District of Columbia, but it may meet and exercise all its powers in any place. I call attention to another thing: The statement was made, so far as violations of the law were concerned, that the packer or anyone being supervised might as far as the law is concerned have his day in court, but that as to rules, regulations, and orders made by the commission itself they would have no day in court on them. Listen to this:

An order requiring a packer or operator to cease and desist from violating a provision of this act, or of any of the rules, regulations, or orders issued hereunder, shall, and so forth.

Mr. CREIGH. But that does not say he will get a regulation when promulgated into court. It says an order to desist from violating, and so forth.

Mr. McLAUGHLIN of Nebraska. Any rule, order, or regulation hereunder.

Mr. CREIGH. No. It says to cease or desist from violating any of the provisions of this act, or to cease or desist from violating any rule, regulation, or order hereunder. The court has to take the regulation at its face value. The question is whether we have violated the regulation. That was the case when I cited the sausage regulation. The Supreme Court said it was within its discretion to make the regulation and we could not attack it.

Mr. MAYER. The bill is so drastic and general in its powers, as well as the commission form which it provides, that as I said last year when I appeared before this honorable body, that as it appears to me it would tend to break down the credit structure, which is so important. As to that credit structure, if you gentlemen are acquainted with what the packers must do in the way of raising funds, it is absolutely vital, not only to the packing business but to the agricultural interests of this country, and any law that can operate on suspicions will unquestionably break down the confidence of the banking interests, which have been built up only through years of patient effort and fair dealing in this business.

Mr. TINCHER. Don't you think that any constructive law, as this committee always reports, would help the credit of the packer?

Mr. MAYER. I do not doubt that, but I am coming to that. As to the other bills, Mr. Haugen's bill is superior to the Anderson bill in my estimation in that it places the Secretary of Agriculture in charge as opposed to the Federal Trade Commission, because we really think in the packing business more of the Secretary of Agriculture to-day than we do of any other arm of the Government which might be brought in to regulate us. In the first place, he has already an efficient corps of

men in our business, and has, through 15 years of contact with our business, gotten what I consider ought to be a sympathetic understanding of the business. Of course his functions have not gone as far as to investigate our business processes, but it would be very easy, through the men he has, to get into that sort of work if it should be so ordered. And the Secretary of Agriculture is the only logical man to do it, and the man in whom the packers would have the most confidence.

But I maintain that there is no regulatory legislation necessary in the packing business. There are no great abuses in the packing business at the present time. Let no one deceive himself on that. There may be sporadic cases of wrongdoing or mistakes, or mistakes of diplomacy or tact, but there are no great abuses in the packing business at the present time. But as to just what is coming out every minute of these meetings that I have attended, we feel that if there may be a proper and scientific knowledge of our business I am certainly in favor of you gentlemen putting the machinery in motion to get that knowledge and let us do away with the inuendo and get rid of the misconception of this magnificent industry of ours which does not deserve the treatment it has had.

This has been the third year that this industry has been operated at a loss, and I tell you gentlemen frankly, and you may see it with your own eyes, that unless there is some constructive measure put through to put this industry back in the position it deserves in the public eye it will not stand the strain. It is like a chronometer, and it will not stand to be knocked about in this way. We would all welcome constructive, supervisory legislation by an enlightened department of agriculture that would get at the true facts of our industry. There is certainly need for that. My suggestion is that any department of agriculture or any secretary of agriculture, or some man of a scientific type of mind, a man capable of and determined to investigate fairly and deal fairly, might be put in charge to see for himself whether there is more than 2½ cents or 3 cents on a dollar of sales left when the packer handles an animal. If that is done I think you will get the most whole-hearted cooperation from the industry, and I think in two years the industry will not stand discredited in the eyes of the public, but will stand out strong and clear from the standpoint of rendering public service.

Mr. TEN EYCK. Was that gross profit that you referred to?

Mr. MAYER. Before dividends and taxes. That was after all expenses are taken off and before dividends and taxes are paid. Really in our case, where we have preferred stock, it really just covers the operating expenses. A man will not pass his dividends. You have to figure on them. We do anyway.

But, gentlemen of the committee, do not make the mistake of thinking that this legislation is going to reduce prices to the consumer or raise prices to the live-stock producer. Any legislation of this type that you may put through will simply serve to enlighten you as to the true facts of our business. It is not going to raise prices of live stock or reduce prices to the consumer, for the simple reason that it can not be done. We can not operate on less than this profit.

Mr. TINCHER. On the proposition that the price of live stock can not be raised, if you are right about that you just as well get ready to go out of business, because live stock can not be produced at present prices.

Mr. MAYER. That may be true. But what about the packer who takes the live stock? When I was in Madison the other day I was standing in my yard, and a man came up and said to me—

I am losing $200 on this load of cattle.

I said to him—

Well, I am going to lose another $400 on them.

We can not help the producer on that.

Mr. TEN EYCK. What can be done to cut out the spread between your wholesale price and the amount that the consumer has to pay? If that could be cut out then the farmer might receive more money for his product and thus be interested in raising more cattle, and the consumer will be more pleased because he will buy cheaper.

Mr. MAYER. The packer is certainly interested in seeing that the producer gets every dollar he can out of his stock. We know that if live stock is sold at a loss there will be a small run of live stock and we will lose money. But the spread comes after the stuff leaves the packer. It is due to various causes, such as have been brought out in these hearings—higher price of distribution, demand for expensive cuts, and for only a small percentage of the carcass. Somebody has said: What is the retailer doing? But I need not go into that.

Mr. TEN EYCK. Do you feel that that spread is going to be curtailed?

Mr. MAYER. Yes. In spite of any legislation or regulation the retailer will not be able to stand up indefinitely against the pressure of lower buying prices. If you will give that a little time, probably six months, a good deal of headway will be made.

As to any further constructive suggestions, I do not know that I have anything else to say. A regular run of live stock would be a good thing, but I do not suppose that can be handled. I am speaking of hogs now, because I am mostly acquainted with hogs; but in spite of the fact that live stock runs do vary, we packers figure on a variation, and buy accordingly. We know that there is going to be a big run on Monday and a short run on Saturday. Practically everybody stays out of the market on Saturday, and we try to tune our purchases until the course of the slaughter takes it off our hands. In that way in spite of the fact that there is a great variation in the run of hogs on the Chicago market the prices of hogs are maintained through the skill of the buying departments of the packers.

I would suggest that at this moment while I have the ear of this committee, that regardless of the fact that the meat inspection law is said to be a good thing, it is subject to some revision. It has been said that the meat inspection law was a wonderful thing. Far be it from me to make any statement to the contrary. The meat inspection law in its protection to public health is certainly one of the most beneficial acts that this Congress has ever passed.

However, take note of the fact that only 60 per cent of the animals of this country are slaughtered under the Federal meat inspection; that nothing slaughtered on the farm for intrastate commerce comes under the meat inspection law. And as a matter of fact 40 per cent of the entire slaughter of this country is outside of the wonderful law under which we operate.

Mr. CLARKE. Have any States regulatory acts?

Mr. MAYER. They have some which are more or less effective, generally less. The State laws do not cover that. In view of that fact agricultural communities have naturally found out where to put animals which they do not think would pass the Federal inspection. They do not bring them to the Federal yards. In that way the law is very far off. I do not think there is another country in the world where you have a Federal meat inspection act which is inoperative in two cases out of five.

Mr. CLARKE. Have you ever had come under your observation or heard of cattle that was suspected of being tubercular going into the hands of a bologna factory?

Mr. MAYER. Just by hearsay. One more point in regard to the meat-inspection act. Of course, the packing interests are operating to-day under the expense of condemnation. We can not pass that on. We have to assume that as an operative cost. Whether we succeed in passing it on depends upon our markets. The fact remains that that thing operates uneconomically, and in this way: It holds back the eradication of live-stock diseases in the United States, because the man who is bearing the brunt of it has no very good possibility of correcting those diseases. If the losses reverted back to the farmer, where they belong, unquestionably in a very short time it would result in practically an elimination of live-stock diseases in the United States.

Mr. GERNERD. Wouldn't that mean there would have to be a physical inspection of the live animals at the point of shipment?

Mr. MAYER. No; the live animals would have to be first inspected, as it is done now, on the feeding range.

Mr. CLARKE. How would you get that?

Mr. MAYER. By tagging.

Mr. VOIGT. This criticism that you make that the inspection law does not cover all animals can not be helped by the Congress because the Congress can not cover intrastate inspection.

Mr. MAYER. I understand that, but you will agree with me that it is unfortunate that it can not.

Mr. TEN EYCK. Isn't it a fact that a steer might react but still be good for meat?

Mr. MAYER. Yes, sir. We are killing for the State of Wisconsin right along every week so-called reacted cattle, and a large majority of them pass for food.

Mr. TEN EYCK. They are cattle that would be condemned for containing tubercular germs in the milk but not for meat?

Mr. MAYER. Yes, sir.

Mr. CLARKE. A very close inspection is made of them, all glands are opened up, but a majority of them pass this inspection?

Mr. MAYER. Yes, sir.

The CHAIRMAN. That is all; we thank you.

Mr. MAYER. Before closing I am going to offer the following amendments to the Haugen bill:

1. In case a bill is reported from this committee giving jurisdiction to the Secretary of Agriculture or any other agency to supervise the packing industry, the jurisdiction of the Federal Trade Commission should be terminated so that we will not have two governmental agencies exercising the same jurisdiction over this industry. With all the possibilities and probabilities of conflict, the packer will not

know in such a case which authority to obey and it will result in great confusion, as well as duplication in governmental expense and supervision.

2. The bill should be further amended so as to amend the procedure before the Secretary of Agriculture in such a way that his findings of fact shall not be binding upon the court, unless they are supported "by the weight of evidence." At present, the Haugen bill would require the circuit court of appeals to accept the conclusions of fact if they were supported "by evidence" which means if it was supported by any evidence whatever. We think this entirely too narrow and changes the rule of evidence which has been in force since the foundation of the Republic, which gives to any litigant that right.

This amendment should be made in section 205, page 8, lines 5 and 17, subdivision (f) of the Haugen bill. The words "the weight of the" should follow the word "by" in line 5, subdivision (e), page 8; and should follow the word "by," line 17, subdivision (f), page 8.

3. I think the Haugen bill ought to be amended by striking out section 402, because that provision of the bill seems to attempt to make it a criminal offense for the head of any packing concern to err in judgment. It goes further than any provision which I have noticed in any legislation in that if the officer, employee, agent, director, member of the governing board of any packer, stockyard owner, commission man or dealer through neglect personally omits to perform any necessary act or properly to supervise or apportion duties among his subordinates in the execution of his authority and functions vested in him, thereby a violation of the act is brought about. It leaves it to the judgment of a Government official to say when or whether he has failed to correctly apportion the duty of each subordinate in a packing concern, several of which have as many as 25,000 employees.

The same thing applies if he negligently omits to properly supervise such employees. No head of any business concern in this country could safely exercise his judgment in the face of such a provision of law.

Furthermore, it seems that section 401 goes as far as any law should extend on this subject. Therein every corporation is held responsible for the act, omission, or failure of any agent, officer, or other person acting for any packer, stockyard owner, commission man, or trader, or packer agents in the stockyards or packing plants.

Under this language in section 401 the packer corporation would be guilty of an offense even though its employee absolutely violated the instructions that had been given to him.

4. It seems to me that the definition of live-stock products, page 1, line 11, of the Haugen bill, when taken in connection with the definition of a packer on page 3, section 201, lines 5 and 6, would bring within the operation of that bill many concerns which the authors probably do not intend to supervise or regulate. For example, the term "live-stock products" in the language of the bill means all products and by-products of the slaughtering and meat-packing industry derived in whole or in part from live stock. Section 201, subdivision (b) line 5, provides that the term "packer" means "any person engaged in the business or of (b) manufacturing or preparing live-stock products for sale or shipment in commerce." Therefore, any person using as a raw material any by-product of

the slaughtering or meat-packing industry derived in whole or in part from live stock would be a packer. This definition would make the American woolen mills, who spin wool yarn, a packer, because the wool is a by-product derived from live stock. This language would also make the manufacturers of tooth brushes, or hair brushes, automobile manufacturers using leather or hair for cushions, or soap manufacturers, tanners, shoe manufacturers, harness makers, pharmaceutical manufacturers using glands, glue manufacturers, and many other industries in this country using products derived either in whole or in part from live stock, packers.

I do not think that it was the intention of the authors to include these various industries within the terms of this bill. The definition of live stock as used in section 2, page 1, lines 9 and 10, means "live or dead cattle, sheep, swine," etc. This term as used in section 201 would bring within the operation of the bill every packer engaged in the slaughter of five animals for interstate shipment, so that it would hardly be necessary to provide, in the definition of a packer, subdivision (b) lines 5 and 6, of section 201, but if the committee should desire so to retain it, it should be changed so as to apply to only food products derived from the slaughter of live stock.

I wish to thank you, gentlemen.

The CHAIRMAN. The committee will now stand adjourned until 10 o'clock this morning.

(Thereupon, at 12 o'clock midnight, the committee adjourned until 10 o'clock Friday morning, May 6, 1921.)

MEAT PACKER.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Friday, May 6, 1921.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gernerd, Mr. Clague, Mr. Clarke, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. Who is the next witness, gentlemen?

Mr. VEEDER. Mr. Chairman, at the session last evening I said I would bring to the committee this morning some copies of Swift & Co's. analysis of the Federal Trade Commission report, part 2. I have brought the copies here and they are on the table.

Mr. TEN EYCK. Mr. Lightfoot, you were going to submit a letter.

Mr. LIGHTFOOT. The one I referred to last night?

Mr. TEN EYCK. Yes.

Mr. LIGHTFOOT. It is in the Congressional Record here.

Mr. VEEDER. The letter written by the Federal Trade Commission to the Secretary of State.

Mr. TEN EYCK. And also a letter of the Secretary of State.

Mr. LIGHTFOOT. We did not have a copy of the Secretary of State's letter but we had the letter of the Federal Trade Commission.

Mr. VEEDER. There is a copy of it in Senator Sherman's speech which is printed in the Congressional Record.

Mr. WILLIAMS. What is the date of that?

Mr. VEEDER. January 27; and in addition to that, the Senator has printed in full the reports of the British Board of Trade and the other committees of the British Government which made a report, as to the packers, based, as they state, upon the Federal Trade Commission's report, in which report they recommend various devises for cutting the packers out of the business of importing into England.

Mr. TEN EYCK. You have not a printed copy or a typewritten copy of this letter?

Mr. LIGHTFOOT. I have a copy of it among my papers at the hotel, and I will see you have a copy of it.

Mr. WILLIAMS. Is it not in the record?

Mr. LIGHTFOOT. Yes.

Mr. CREIGH. Mr. Ten Eyck, if I might explain the situation there, there was what was called the Sherman resolution which directed the Federal Trade Commission to send to the Senate certain information. The letter is in the great mass of information which the Federal Trade Commission furnished and which was printed as a Senate document, and the copy printed there is the same, of course.

Mr. VEEDER. That is the source from which Senator Sherman took this letter. Here is a letter with the names of the countries written by the Federal Trade Commission and here is the form letter which they requested be sent out by the Secretary of State.

Mr. TEN EYCK. Unless the chairman wishes, I am not going to put this letter in the record until we hear from the Federal Trade Commission in relation to it. I think that is only fair.

The CHAIRMAN. Whatever you decide about that is all right.

Mr. CREIGH. Mr. Chairman, Mr. Thomas E. Wilson, of Chicago, is here this morning, and I think I might have one other witness, and if, after Mr. Wilson is through, you can find a few minutes for a short statement of my own, I think then we will be very near the end.

The CHAIRMAN. We will be pleased to hear from you, Mr. Wilson.

STATEMENT OF MR. THOMAS E. WILSON, PRESIDENT OF WILSON & CO., CHICAGO, Ill.

Mr. WILSON. Gentlemen, I have prepared with some deliberation a short statement which I would like to have the privilege of reading and talking from, if that is agreeable to you.

It is my desire to make a statement in an effort to help you to a clearer understanding of the situation confronting the producers, the packers, and every other element in the live-stock and packing industry.

The problem is in fact an economic one.

Legislation may be helpful or may aggravate an economic trouble, but it is hopeless to look to it alone as a cure. What is wrong with this industry? Many people seem to have lost sight of the fact that the packing industry is merely a processing and distributing factor between the live-stock producer and the consumer of the product. These hearings have demonstrated that the service is efficient and economical, that the profits are lower than any other essential industry, and that its treatment of its competitors and of the public is fair and reasonable.

In my opinion the principal thing wrong is the unwarranted suspicion that something is wrong.

No industry can continue to serve the public efficiently when it is suspected, condemned without sufficient proof, and is distrusted without adequate cause. Such a public attitude lowers the morale and the effectiveness of every person in the industry; a lowered morale means poorer service, it reacts on the laborer as well as the executive. It sometimes makes work half-hearted and undermines the faculty for wise decision.

I deem it unnecessary to answer the charge that the smaller or so-called independent packers exist by sufferance of the larger packers, or that many have been forced out of business. Not a single one has appeared at the hearings to support that charge, but on the contrary, large numbers of them have appeared and refuted the statement by declaring they have found the competition of the larger packers keen but fair, and their treatment has been reasonable and in accord with the principles of American business ethics. More than 200 of the packers, large and small, have organized themselves into an association known as the Institute of American Meat Packers

and have unanimously and with one voice protested against the adoption of the radical legislation heretofore proposed for the control of the industry.

The consuming public have no just cause for criticism against the packing industry, for all the evidence shows that they are efficiently distributing daily throughout the length and breadth of the land pure and wholesome meat-food products at a cost and profit to the packer for the services lower than that rendered by any other manufacturer or distributor of basic necessities of life in this country.

I will offer some figures to further demonstrate this undeniable fact. The figures show that out of every dollar received by the packers from the sale of beef and all the by-products derived from the animal from 85 to 90 cents is returned to the producer of the live stock. One of the larger packers has compiled a statement covering several years showing their experience on this point, which I will set out here.

I shall not undertake to read these figures now because they will be put in the record, but I just want to call your attention to the items. This statement runs from 1915 to 1920. The first item is the average live cost for each year; the second item is the average proceeds per head from the sale of beef; the third item is the average proceeds per head from the sale of by-products; and the last one is the average proceeds per head from sale of beef and by-products, and the other is the average percentage of proceeds per head from the beef and by-products paid for live animals.

In answer to some of the questions asked here yesterday, take the year 1920, the live cost of the animals averaged $93.85; the average proceeds from the sale of beef was $86.31; the average proceeds per head from the sale of the by-products was $21.17; and the average proceeds for the beef and the by-products was $107.48.

Mr. KINCHELOE. Was this at your own plant or for the whole business?

Mr. WILSON. These figures are compiled from one of the large packers. I have not got them for the others.

Mr. TINCHER. This is your own statement?

Mr. WILSON. No, sir; these are the figures of Swift & Co., but there would be very little variation. I have checked these figures, as near as I could, with our own figures, and there is very little variation It is hardly perceptible.

Institute calculation based on published figures of Swift & Co.

	1915	1916	1917	1918	1919	1920
Live cost (average price per head)	$72.49	$73.68	$84.45	$92.70	$102.82	$93.85
Average proceeds per head from sale of beef	63.28	63.98	68.97	61.45	88.21	86.31
Avergae proceeds per head from sale of by-products	18.58	19.08	24.09	22.06	25.59	21.17
Average proceeds per head from sale of beef and by-products	81.86	83.06	92.06	103.51	113.80	107.48
Average percentage of proceeds per head from beef and by-products paid for live animals	88.8	88.7	91.7	89.6	90.4	87.3

The average return to the producer shown in each instance was never less than 87.3 per cent, and the meat was invariably sold to the consumer for less than cost of the live animal. Out of the remaining 10 or 12 cents from each dollar of sales, the packer must pay all manufacturing and distributing costs, including labor, icing, transportation, insurance, fuel, power, lights, telephone, depreciation, losses and profits, if any. The packer pays to the producer the largest possible portion of what he receives from the retailer, and delivers the product to the retailer at the lowest possible cost. If the entire net profit received by the five larger packers from all sources last year on business transacted in this country were divided by the 37,155,958 head of live stock slaughtered by them, it would only amount to 19 cents per head, and if this was refunded to the millions of producers it would amount to such a small sum to each individual he would scarcely realize it. On the other hand, the consumer no doubt is anticipating cheaper meat from this legislation. But if the entire net profit, which was equivalent to less than a quarter of a cent on each dollar of sales, was distributed between the tens of millions of consumers who purchased our product there would not be a coin or even a postage stamp small enough in denomination to make change as he bought each dollar's worth of our product. It is the immense volume of business gradually accumulating these small fractions that make up our actual net profits.. Yet we have witnessed both the representatives of some of the producers and some consumers making common cause at these hearings, advocating the same restrictive legislation to further control this industry. Now, under these circumstances, for the same bill to benefit both the producer and the consumer is an absurdity. The packers' margin of profit is certainly at a minimum. If it were entirely eliminated neither the producer or consumer would be conscious of it in his transactions, but the packing industry would be ruined and all would suffer great losses.

I set forth at this point a tabulation of the profits, investment, sales, and slaughter of the five larger packers for each year from the year 1913 to the year 1920, inclusive, showing the profit per dollar of investment, profit per dollar of sales, and profit per animal slaughtered in each of these years.

Now, gentlemen, here are three tables giving you the figures any way you want them. I think from the standpoint of the producer, he is interested in knowing the profit that the packer takes as toll per head on the cattle, sheep, and hogs they handle, and I think the consumer is interested in knowing what toll he is paying to the packer in the way of a profit on a dollar's worth of stuff that the consumer is buying. If those tables do not satisfy, a table is also here showing the profit on the invested capital for the eight years. The variation on the profit per animal slaughtered runs from 19 cents last year, 1920; the highest was in 1917, $1.95 per head, and in 1913 it was 59 cents per head, and the average for the eight years was 97 cents per head. During the eight years we slaughtered 297,000,000 animals, or sales were $17,000,000,000, and the total profits during that time were $289,000,000.

Profits, investment, sales, and slaughter of the 5 larger packers from 1913 to 1920.

Year.	Profits.	Capital and surplus.	Profit per dollar of investment.	Sales.	Profit per dollar of sales.	Total slaughter.[1]	Profit per animal slaughtered.
			Cents.		*Cents.*		
1913	$19,888,616	$281,784,873	7.1	$1,152,269,789	1.7	33,718,980	$0.59
1914	22,079,124	292,411,396	7.6	1,261,991,449	1.7	32,219,639	.69
1915	30,596,289	305,259,192	10.0	1,323,417,156	2.3	33,470,995	.91
1916	52,322,501	326,680,070	16.0	1,642,553,986	3.2	37,725,706	1.39
1917	72,279,586	364,372,206	19.8	2,189,438,423	3.3	37,029,947	1.95
1918	51,631,941	429,642,800	12.0	3,216,507,971	1.6	42,303,301	1.22
1919	33,508,070	546,249,774	6.1	3,500,703,198	.96	44,324,805	.76
1920	7,218,086	590,297,028	1.2	3,013,002,000	.24	37,155,958	.19

[1] Slaughter of one company estimated for the year 1913. Figures for 1914, 1915, 1916, and 1917 include total yearly purchase of one company, which undoubtedly approximates the total yearly slaughter.

As an illustration, in the year 1913, the actual net profits of the five larger packers on all business transacted by them was $19,888,616. The total capital and surplus was $281,784,873, making a return of 7.1 cents profit per dollar of investment. The total sales of the five larger packers for that year was $1,152,269,789. This includes many items not derived from animals. The profit per dollar of sales was 1.7 cents. The total slaughter of the five larger packers for that year was 33,718,980 head of live stock. When you divide this number into the total profits of $19,888,616 it shows that the packers bought, slaughtered, processed, and delivered to the retailers the meat and by-products from each of these animals at an average profit of only 59 cents per head. During the 8 years from 1913 to 1920, the aggregate cumulative sales of the five larger packers was $17,299,883,972. During the same period the aggregate number of live stock slaughtered was 297,949,331. The aggregate profits during this 8-year period, which included in all the years the profits from all sources, including the plants in foreign lands (except in 1919 and 1920), were $289,524,213, less than 1.7 cents per dollar of sales, or approximately 97 cents on each head of live stock slaughtered.

I submit that an average profit per head over a period of eight years of 97 cents is a remarkably reasonable remuneration for the complicated work of killing and dressing a hog, steer, or sheep, and preparing, distributing, selling, and shipping the meat and by-products derived therefrom. In fact, for the stability and safety of the industry it should be higher.

In order to show further that the packing industry is serving the country economically, as well as efficiently, I should like to present an analysis of the aggregate profits and sales of the 44 leading industrial corporations, including the five largest packing companies. These corporations, both packers and nonpackers, were selected because of the availability of their annual reports, and the figures were taken either from the annual reports of the companies or from Moody's Manual and the Commercial and Financial Chronicle.

The list includes 1 manufacturer of beverages, 2 petroleum refiners, 1 manufacturer of leather, 3 sugar refiners, 2 manufacturers of explosives, 8 manufacturers of machinery, 1 manufacturer of tobacco, 1 coal-mine operator, 7 manufacturers of motor cars, 1 manufacturer of rubber products, 3 manufacturers of clothing, 3 manufacturers of

steel, 3 retail chain stores, 2 mail-order houses, and 5 meat packers. These 44 corporations, with an invested capital and surplus of about $4,280,000,000, handled almost $8,000,000,000 worth of business during 1920, which netted nearly $350,000,000 in profits. The aggregate business of the five packers was about $3,013,000,000, with an aggregate net profit of $7,218,086. The combined business of the other 39 corporations was $4,912,000,000, or about 60 per cent more than that of the five packers. On this amount of business, the nonpackers received aggregate net profits of $347,526,243, as compared with $7,218,086 for the five packers. The sales ($3,013,002,000) of the 5 packers were approximately three-fifths of the sales of the 39 nonpackers, while the aggregate profits of the 5 packers were only a little more than one-fiftieth of the aggregate profits of the 39 nonpackers. While the year 1920 may not be fairly representative, nevertheless any other year would show substantially the same results.

This shows that the 44 corporations in 1920, with a capital and surplus of $4,280,000,000, did a volume of business amounting to $8,000,000,000, and the profits of those 44 corporations were $350,000,000. The five packers, who are included in that, did a business in volume of $3,000,000,000, or about three-fifths of the total of the 39 other nonpacker corporations, and the profits of the packers were $7,218,000. The profits of the 39 other nonpacking corporations were $347,000,000; that is, $347,000,000 on a volume of $4,912,000,000, while the packers' profits were $7,000,000 on a volume of $3,000,000,000. The 39 other corporations did 60 per cent more business, but the packers earned only one-fiftieth of what these other 39 corporations earned. I have set that forth here in detail and I will not take your time to cite that further.

None of the five packers averaged as much as three-fifths of a cent of profit on each dollar of sales. The average for the five was less than one-quarter of a cent. The average rate of profit of the other 39 corporations was 6.93 cents on each dollar of sales, or approximately twenty-eight times greater than the average of the five packers.

The five packes had about $590,000,000 of capital and surplus at the beginning of the fiscal year.

Mr. TINCHER. What year did you take there?

Mr. WILSON. 1920. The packer with the highest return received about 2½ cents on each dollar invested. The average for the five was slightly less than 1¼ cents per dollar of investment.

The other 39 corporations had almost $3,700,000,000, to be accurate, $3,690,932,520 of capital and surplus. Their average profit per dollar of investment was more than seven times as great as that of the packers, 9.22 cents as compared to 1.23 cents.

I have also had a comparison made for another year involving a a larger number of industrial concerns which will illustrate the point that the packing industry is serving the country as efficiently and at a far lower percentage of profit than probably any other basic industry in the country. In the year 1919 the reports of 81 leading industrials, including the same packing concerns, showed that 76 nonpackers averaged 10.79 cents per dollar of investment and 9.05 cents per dollar of sales, as compared with 6.13 cents per dollar of investment and nine-tenths of a cent per dollar of sales averaged by the five packers that year. The yearly figures show plainly that when the packing industry, which handles a perishable product, is ranked in accordance with its rate of profit on either sales or investment.

it takes a place near the bottom of the list. When ranked with reference to the volume of its sales, it heads the list of industries. Thus, the largest industry in America has been built up to the first rank by large sales and a small rate of profit, usually well maintained; never becoming excessive but nearly always earned.

In my opinion the real trouble lying at the base of this whole question is not so much a packers' problem as it is a producers' problem. The most persistent complaint arising from the producers has been because of the fluctuations in prices in the stockyards. Because of these fluctuations, due to conditions of supply and demand, competition and other causes, little understood by the producers, they have been misled into the belief that in some manner these markets were manipulated.

There is no keener competition in any business in this country than there is in the purchase of live animals in the markets and in the sale of finished products, as the figures which I have already presented bear convincing witness. The fundamental cause of fluctuations in prices is largely due to the unscientific and inefficient system employed by the producers in marketing their products. There is not now and has never been any permanent efficient system governing the marketing. The producers as a rule do not attempt to distribute shipments to markets so as to produce a fairly uniform flow throughout the week, month, or year. The packers are expected to absorb all that is sent to market in whatever quantity and whatever time, to pay cash on the spot and then find a quick market for all the product. Such a contention necessarily adds complications and problems to the business. The expansion and contraction of labor, equipment, and financing necessary to economically handle business under such a system necessarily produces many problems for which we would gladly welcome some permanent solution. The general public should understand and appreciate the extent and rapidity of these changes, expanding the industry to unprecedented dimensions and then contracting it again with amazing speed.

As an example, in March, 1913, the United States exported 770,302 pounds of fresh beef. In March, 1918, due to the demands produced by the war, we exported 62,064,261 pounds, or more than eighty times as much. In March, 1920, these figures showed 6,036,166 pounds, or about one-tenth the quantity exported two years previously, and now it is practically nil. We are practically out of the export business on fresh beef. Exports in other meats also showed a very heavy decrease. The sudden termination of the war found production at its peak. Everything had been produced at extraordinarily high cost. Readjustment to a peace basis, the contraction of credits, the general movement to force a lower level in the cost of living (fostered by Governmental agencies), the effect of Government action in marketing, at figures below cost, large quantities of food supplies accumulated for war purposes, and many other causes have contributed to a very unsatisfactory year for packer and producer alike. One of the most important causes of the decrease in the value of live stock with consequent losses to producers was the decline of our abnormally large export trade in meat products. I need not point out to this committee that the value of American live stock is determined by the available supply of cattle, swine, and sheep, and

by the consumptive demand in the United States and abroad for American meat products and by-products. If either the domestic or foreign demand, or both as has been the case, is reduced without a proportional reduction in the supply, the meat animal necessarily becomes less valuable. The packer can not continue to pay out more for live stock than he can get for the meat and products derived therefrom. Let us consider for a moment the changes which have occurred in foreign demand for American meat products.

In the month of March, 1918, after the Allies had declared that the further prosecution of the war depended on immediate shipments of wheat and meat from this country, we exported more than 300,000,000 pounds of pork products—averaging 10,000,000 pounds a day and equivalent to the daily slaughter of 66,000 hogs. These March, 1918, exports of pork products alone represented the slaughter of more than half the number of hogs owned in the United Kingdom at the beginning of the war. (Official statistics of United States Food Administration.) I might say that that was only the one month of March, 1918, that we were called upon to ship this 300,000,000 pounds. At that time I was chairman of the packers' committee working with the Food Administration, and I was notified on one Wednesday over the long distance phone that we must be prepared on the following week to commence shipping on this basis of 300,000,000 pounds per month. That meant a perishable product and it was at a time when transportation was difficult. We were just working out of the terrible blockade of the February heavy snowstorm, which you gentlemen will remember was the most severe the country had ever seen; but we went through and delivered and shipped the 300,000,000 pounds in March, an equal quantity in April, and an equal quantity in May, and I can say here, without taking unto the packing industry any particular credit, that the purchasing commission of the British Government at that time said that had it not been for the facilities of the packers in meeting this situation the war in Europe would practically have been lost. Now, I do not claim that for the packers. I claim that fully as much for the producers of the country. They made this possible but it was done, and those people over there appreciated the seriousness of the situation and the need of the facilities that these packers had built up and appreciated that without them conditions would have been much more serious than they were.

Mr. TINCHER. What months was that?

Mr. WILSON. March, April, and May, 1918. In those three months we shipped 900,000,000 pounds of perishable products, and if you will refer to the records of the Food Administration you will find a similar statement made by their chief statistician, Mr. Chase, which said that it was the conclusion of all that without these very material increased shipments of meat and wheat, conditions would have been much more serious in Europe.

Total exports of meat products in March, 1918, reached the amazing figure of 395,651,195 pounds. (Official statistics of the United States Department of Commerce.) Now what was the case in March, 1921? This is two months ago and is the latest month for which official figures are available. Instead of exporting meat products amounting to 395,651,195 pounds as in March, 1918, we exported only 155,967,925 pounds.

Or compare the exports last year, 1920, with the exports of the year before, 1919, when Europe was still buying in very large quantities, and you will have another vivid statistical picture of one reason live stock and meat prices went down. In 1919 we exported practically 3,000,000,000 pounds of meat products, worth approximately $940,000,000. Last year we exported less than 1,730,000,000 pounds of meat products, valued at less than $415,000,000. According to official figures, the decrease in our export trade during this one year amounted to 1,270,000,000 pounds, or a loss of $526,013,456. Figuring this at 85 cents out of each dollar to the producer and you will see why the American farmer has less money to spend. It means a reduction of income of the producer exceeding $400,000,000.

Now, let us examine in this connection also the facts in relation to the exports of beef. In the year 1918 we exported 728,000,000 pounds of beef. In the year 1919 this volume had decreased to 314,000,000, or a decrease of 57 per cent. In the year 1920 we exported only 164,000,000, which was a decrease of 78 per cent from the year 1918. These figures are from the statistics of the Bureau of Animal Industry. During 1920 exports of beef were less by 150,000,000 pounds than in 1919, and less by 584,000,000 than in 1918. The decrease in the year 1919 was equivalent to approximately 300,000 cattle, as compared with 1918. The decrease in 1920, as compared with 1918, was equivalent to approximately 1,128,000 head of cattle.

Pork exports declined 1,121,000,000 pounds during 1920, as compared with 1919, which was equivalent to approximately 7,000,000 hogs. It is unquestionably a fact that the abnormally increased value of live stock and many other kinds of raw material was due to relative shortage of supply caused by war conditions. The consequent depression was caused by the afterwar contraction. Its slackening has meant hardships to packers as well as to producers. More than one packing company has been unable to earn the dividends which its stockholders had a right to expect, and many producers have suffered losses they could little afford to stand. It would be a great misfortune if the hardships which everyone has suffered, and the farmers most of all, should cause us to adopt legislative panaceas which will only serve to divert us from energetic efforts to adjust ourselves rationally to the changed and difficult situation.

During the war it might perhaps have seemed possible to legislate prosperity, or at least security in the form of a guaranteed profit for producers by fixing the price of farm products. But this could be done only because we were in a sellers' market and because the Food Administration practically controlled a large part of the world purchases. This is no longer true, and no one can underwrite a fixed price for raw material now. No one can guarantee the farmer or the industrialist protection from changing markets and altering values. It would bankrupt nations. Even if there were any agency with power to do this the exercise of such power would not long be tolerated by the consuming public.

It seems to me that back of all the agitation for legislation is the feeling that the Government should do something for those who have suffered losses. I would be glad to see the Government do what it properly can to help the producers, farmers, or any industry in need of its assistance. But congressional enactment can not change the economic conditions existing at this time in the world. More-

over, this situation is broader than the meat and live-stock industry. What has happened to meat and live-stock values has happened to corn, wheat, cotton, and many other raw materials and finished products. The plain fact is that we have all been affected by the same economic situation and must win our way out by ability, confidence, courage, enterprise, and adaptability.

If legislation could be substituted for economics, I might be tempted to ask that some bill be passed to restore the value of packing-house products. I have already pointed out that we pay for live stock out of the money we receive for the meat and by-products derived from the animals. A decline in by-products or meat means that we can get less money for the total products. When by-products were at their peak values along in the summer of 1919, the net worth to the packer of the total by-products, including the hide from an average steer, was $35. That was the peak. This enabled us to sell the meat from the animal at less than we paid for the live animal. To-day we realize less than $8. In some cases the money which can be realized on certain by-products does not cover the cost of preparing them for market.

I should like to call your attention to the declines in the value of hides and some of the principal by-products. I set forth at this point a table showing the prewar price, the "peak" price, and current prices of by-products of cattle for the week of April 23, 1913, the "peak" date in 1919–20, and the present market price for the week ending April 23, 1921, also showing the percentage of decrease from the "peak" price: The accompanying tables give the prewar price, the "peak" price, and current prices of principal by-products of cattle.

By-product prices.

	Prewar price, week of Apr. 23, 1913.	Peak of market.		Present market, week of Apr. 23, 1921.	Per cent decrease from peak.
		Date.	Price.		
Heavy native steer hides	$0.16½–$0.17	Aug. 2, 1919	$0.53	$0.10	81
Colorado steer hides	.16½	.....do.....	.48	.08	83
Light native steer hides	.15½– .16	.....do.....	.60 – .61	.08– .09	86
Branded cowhides	.16	.....do.....	.50	.08	84
Edible tallow	.08– .08¼	July 12, 1919	25 – .26	.05½– .06	77
Prime oleo stearine	.11	.....do.....	.28¼– .29	.06¼– .06½	78
Extra oleo oil	.11¼– .11½	.....do.....	.34 – .35	.10¼– .10¾	70
Fertilizer:					
Dried blood (per unit)	2.80 – 2.85	Mar. 27, 1920	8.40 – 8.50	2.85 – 3.00	65
Tankage, concentrated (per unit)	2.40 – 2.45	.....do.....	7.25 – 7.40	2.85 – 3.00	64

(The hide prices are from Hide and Leather and the other prices from the National Provisioner.)

As an illustration, heavy native steer hides were quoted during the week ending April 23, 1913, at 16½ to 17 cents per pound. On August 2, 1919, the same hides were selling at 53 cents per pound. The present market price is 10 cents per pound, showing a decline of 81 per cent from 1919, as compared with the present price. Colorado steer hides in 1913 were worth 16¼ cents, in 1919 48 cents, now 8 cents, a decline of 83 per cent in a little more than one year.

Edible tallow was worth in 1913 8 cents, in 1919 25 cents, in 1921 5¾ cents, a decline in a little more than a year of 77 per cent. Prime oleo stearine was worth 11 cents in 1913, 28 to 29 cents in 1919, and is now quoted at 6¼ to 6½ cents, a decline of 78 per cent.

The price of live stock reflects the decline in both by-products and meat, for the value of the meat, too, has declined heavily.

Mr. TINCHNER. Mr. Wilson, do you know of any other product that bears the same relation in price to the prewar price?

Mr. WILSON. No; I do not.

Mr. TINCHNER. Do you know of any manufactured article where the product bears anywhere near the relation or is as cheap as the prewar price? For instance, anything manufactured from the hide?

Mr. WILSON. I have no figures to show that exactly. Of course, leather is a lot cheaper now.

Mr. TINCHNER. Than it was before the war?

Mr. WILSON. Than at the peak.

Mr. TINCHNER. I am talking about before the war.

Mr. WILSON. I do not think leather is cheaper than before the war; I have no figures before me on that.

Mr. TEN EYCK. I know this: I have bought the same kind of shoe for a great many years, and in 1913 I bought the shoe for $7. Not over a month ago I paid $12 for the same shoe.

Mr. WILSON. That shoe in 1920 or 1921 was probably selling for more than $12, was it not?

Mr. TEN EYCK. Yes; it was selling for $14.

Mr. WILSON. Of course, the shoe manufacturer has not had the reduction in labor. I presume there is a big item of labor in the shoe, and that has not been reduced in proportion to the reduction in the leather.

Mr. TINCHER. There has been no reduction that can be compared to the reduction in the raw material?

Mr. WILSON. I think you are correct in that.

I have the fertilizer prices, but I will not take the time to go over them.

Mr. JONES. The prices that the packers receive?

Mr. WILSON. That is the wholesale selling price.

Mr. JONES. That is your selling price?

Mr. WILSON. Yes, sir.

Mr. KINCHELOE. Have you ever seen a time in your experience where there was as great a spread in the price of meat from the producers to the consumers as now?

Mr. WILSON. Yes; I think there has been a time in the recent past when the spread was probably greater than now.

Mr. KINCHELOE. That is since the war?

Mr. WILSON. Yes, sir.

Mr. KINCHELOE. But not before the war?

Mr. WILSON. Oh, no.

Mr. KINCHELOE. What do you attribute that to?

Mr. WILSON. That is a big story, a mighty important proposition. I do not think that it is thoroughly understood by us.

Mr. KINCHELOE. I have confidence in your ability along this line, and that is the reason I am asking these questions.

Mr. WILSON. Of course, that goes immediately to the question of the retailer, that is the problem. There is a great deal to be said on both sides of the proposition. I think that is one of the questions that needs immediate consideration on the part of the Government or any agency of the Government that may undertake the work. There is an argument on both sides. Of course, I am satisfied that

in some cases there have been abuses. I am also of the opinion that in some cases the retailers have been condemned improperly.

Mr. TINCHER. Have you a house here, Mr. Wilson?

Mr. WILSON. Yes, sir.

Mr. TINCHER. When you sell meat to a retailer do you indicate to him in any way that you think he should retail it at a reasonable price, or do you feel, perhaps, that he might go to one of the other houses and buy his meat?

Mr. WILSON. I do not think that would cut much figure in where he would buy. I think it has been the idea of the packers to encourage the retailers as far as possible to meet this situation and meet it in a price way, as far as they are able. We have advocated that. We have had meetings with the retailers and we have urged that upon them repeatedly.

Mr. TEN EYCK. Mr. Wilson, you made a statement that it was a problem with the producer to solve by so regulating his business and cheapening the cost of production. Do you not think, while it may be in a general way the problem of the producer, that the biggest chance for the greatest saving is after it has left the packer's house, between the selling price of the packer and the purchasing price of the public? That seems to be the largest spread. Of course, in a general way you can get the most out of the greatest?

Mr. WILSON. Very naturally. As I say, that is a big problem. I think it is one that needs very careful consideration and complete study of the whole situation. I did not want to convey the idea that the problem with the producer was not one that we were interested in, but I did want to convey this thought, that the control, if possible, of the shipment of live stock into the market, making it more uniform, would have more to do with the elimination of the complaints of the producers than anything that the packers could possibly do. That is not in our hands and we can not control it. We should like an opportunity to cooperate with the producer in that direction, but we have not, up to date, had much of an opportunity to do that. If you like, I will discuss that with you a little further later on.

Mr. ASWELL. No one has yet suggested any plan to handle the spread of the retailer and nobody has suggested any governmental activity that would be successful?

Mr. WILSON. I did not hear Secretary Wallace yesterday, but I did run through his statement in the record and I think he indicated very clearly the need of a better understanding of the retail situation.

Mr. ASWELL. He did, but he did not suggest a way to meet it.

Mr. WILSON. I think it is dangerous to undertake a cure without knowing the disease. I think that was Mr. Wallace's idea and it is certainly my idea, that we can not cure these evils until we know the causes and the fundamental surroundings. I think that is the great danger in this problem.

Mr. TINCHER. I think the record should show as to the last question that the regulation of the industry will cure that.

Mr. ASWELL. My question referred to the retailer.

Mr. TINCHER. I think the idea in every one of these bills is that the enactment of these measures into law would absolutely cure the proposition. While it does not mention the retailer it controls the industry and would regulate the evil.

Mr. Creigh. Is that a bill before the committee?

Mr. TINCHER. That is the understanding of the proponents of the bill.

Mr. CREIGH. What bill?

Mr. TINCHER. The Haugen bill and the Williams bill both claim that it controls the product.

The CHAIRMAN. It controls them as far as the packer is concerned.

Mr. ASWELL. Does your bill propose to control the retail price?

The CHAIRMAN. No, sir.

Mr. TINCHER. If your bill does not control the industry it is not a good bill. Mr. Anderson spent a lot of time and I thought he made everyone understand that the importance of this legislation was to control the industry. I do not know. I may have to draw a bill if these gentlemen disclaim any merit for their measures.

The CHAIRMAN. This is a bill to regulate the packers.

Mr. TEN EYCK. Let us get down to business.

Mr. WILSON. I will call your attention to some of the declines. I set forth at this point some figures of wholesale meat prices taken from the Bureau of Labor Statistics of the United States Bureau of Markets. It shows a decline in prices in March, 1921, from the prices of March, 1920, as follows:

Fresh beef, 33 per cent; salt beef, 52 per cent; bacon, short clear sides, 50 per cent; hams, smoked, loose, 15 per cent; lard, prime contract, 56 per cent; pork, salt mess, 40 per cent; mutton, dressed, 46 per cent.

Wholesale meat prices.

Unit.	1913, average for year.	April,[1] 1918, price.	March, 1919, price.	March, 1920, price.	March, 1921, price.	Per cent decrease from March, 1919.
Beef, fresh, good native steers, ... per pound..	$0.13	$0.203	$0.245	$0.205	$0.163	33
Beef, salt, extra mess..... per barrel..	18.923	31.90	35.50	17.00	17.00	52
Bacon, short, clear sides..... per pound..	.127	.293	.305	.211	.154	50
Hams, smoked, loose..... do....	.166	.295	.338	.316	.273	19
Lard, prime, contract..... do....	.11	.25	.28	.21	.122	56
Pork, salt, mess..... per barrel..	22.471	50.40	50.125	42.30	30.10	40
Mutton, dressed..... per pound..	.103	.192	.214	.196	.116	46

[1] March, 1918, figures not available. Source: The Bureau of Labor Statistics of the United States Bureau of Markets.

Do not all these facts demonstrate that the packer can not and does not control the market prices?

Many meats not quoted by the Bureau of Labor Statistics have also declined. There are a number of other reasons for the declines which are reflected in live-stock prices. I have already mentioned the terrific reduction in the foreign demand for meat products. Other causes include a decrease in meat consumption per capita, increase of unemployment and the consequent decrease in purchasing power and consumption demand, and above all the general decline in commodity values and the general process of deflation which has affected every industry.

I point out in passing that consumption per capita of meat and lard in the United States last year, 1920, was 13 pounds less than in 1918. (163.3 as compared with 154.3), a decrease of 13 pounds per person in the United States during that period.

Mr. KINCHELOE. How do you account for that, Mr. Wilson, the depression in business?

Mr. WILSON. That is one factor. I think there are many contributing factors. I think the constant agitations have had something to do with this, a great deal.

This decrease represents a loss in consumption of 1,365,000,000 pounds of potential consumption on the basis of our population in 1920.

It is from this standpoint that the whole question should be studied. As now organized, we have a highly efficient industry which with enterprise, unfailing efficiency and a very low rate of profit, is processing and distributing so as to be available to the consuming public, the farmers' raw material purchased in the form of live stock.

The interest of the producers is so closely interwoven with that of the packers, that what is injurious to one is bound to prove harmful to the other. There have been numerous bills introduced in Congress during the last two years attempting to provide some additional control or regulation for the packers. I will not attempt to analyze these different bills, but will only make reference to them in order that we may review the different phases exhibited by these several attempts to find a legislative solution for the economic problems I have presented to you.

The first bills introduced were the Sims-Kenyon bill, proposing Governmental ownership and operation of stockyards, refrigerator cars, cold storage, and branch houses, and a license system for the government of the packers. Popular opinion soon condemned the provisions of these measures.

Next, the Kenyon, Kendrick, Anderson bills were offered. They provided for a license system, a divorcement of packer interest in stockyards and very drastic regulations of the details of the business. Again, popular sentiment convinced Congress that the American people were unwilling to fasten upon private business a system susceptible of autocratic governmental domination and official despotism, as distinguished from that freedom of action and private initiative in business so essentially necessary to its success. Even the American National Live Stock Association, which inaugurated the agitation and has maintained the fight for legislation, has abandoned the idea of a license system under which arbitrary powers could have been exercised.

The Norris bill, which has been introduced also before this Committee by Mr. McLaughlin of Nebraska, in my opinion goes beyond the present demands of the American National Live Stock Association, and many other associations representing the live stock interests and farm interests in this country.

Mr. JONES. Which bill is that?

Mr. WILSON. The McLaughlin bill, the McLaughlin-Norris bill.

Mr. THOMPSON. The Norris bill?

Mr. WILSON. Yes, sir.

It creates a new Federal commission, to which is delegated legislative, judicial, and executive powers of the most arbitrary and indefinite character, in conflict with the policy announced by President Harding in his campaign of "less Government in business and more business in Government."

The commission created by that bill will be the lawmaker, the judge, and the administrator and would have power never before vested in any governmental agency for the control of private business in time of peace. It embodies a most dangerous precedent, is un-American in principle, and a radical departue from the time-honored traditions of our country in its relation to the business of its citizens.

In fact, the whole scheme of legislation seems to be predicated upon the idea of penalizing the packers for some unproven and imaginary offense of the past or to shackle them because of the fear that they may exercise some illegal power in the future. In opposing the enactment of such legislation we feel that we are performing a service in the interest of the producers and consumers as well as for industry in general.

This bill does not deal with the fundamental problems of the producer in any particular, and consequently will not do away with the unrest and dissatisfaction which has been stirred up over this question, and when the producers fully realize this I feel that they will justify our opposition to this measure.

I fear that the advocates of legislation of this character have lost sight of the real issue which prompted this movement for legislation. Instead of proposing constructive legislation to solve the problems of the producers and feeders of live stock and of the retail distributors of the products they are attempting by restrictive legislation that which I fear will merely handicap the packers.

President Heard, of the American National Live Stock Association, in his very able address to his association at Cheyenne, Wyo., in January, 1917, said:

> To my mind what we need is the proper balancing of this entire industry so that each group of men engaged therein may receive the just reward for the energy, efficiency, and thoroughness with which they conduct their branch of the business, and the consumer obtain thoroughly wholesome meat at a price based solely upon the economic law of supply and demand and free from speculation, waste, manipulation, or inefficiency in management.

This states very clearly the problem to be solved.

As I have heretofore pointed out, there is no efficient system of regulating the flow of live stock to the markets. The producer does not regulate the marketing operations by the law of supply and demand, nor does he attempt to distribute his shipments to markets so as to produce a fairly uniform flow in accordance therewith. Yet the packers are expected to absorb all that is sent to market in whatever quantities, at whatever times, to pay cash on the spot, and then it is up to them to induce the retailers to take the products. There is nothing in the proposed bill that attempts to solve this great fundamental problem. The packers realize the importance of this question and would welcome some constructive policy that would put the industry upon a sounder economic basis, one that will encourage its continuation and stimulate its growth. They would gladly cooperate in any movement that would legally produce such a result.

Among the reasons why we think the enactment of the Norris-McLaughlin bill unwise, inexpedient, and unnecessary may be mentioned the following:

First. The measure does not deal with or solve the economic problems of the producing and consuming public or of the packer.

Second. The bill delegates arbitrary powers contrary to the spirit of American institutions and the resolutions adopted by many of the producers and farm organizations throughout the country.

Third. The bill sets up a form of governmental despotism over private business which would be destructive of private initiative and individual enterprise.

Fourth. The bill creates another governmental commission whose principal duties will be to duplicate much of the work already being performed by the Department of Agriculture and other agencies.

Fifth. The duplication of this work will cost enormous sums, without benefits to the producer or consumer, and will lead to conflicting authority, endless confusion, and constant uncertainty in the direction of our business.

Sixth. The bill delegates legislative, judicial, and executive power to a commission to make and enforce rules, regulations and orders, having the force and effect of law, to govern private business contrary to principles of American institutions, and the announced policy of the present administration of our Government.

Seventh. The bill gives to a commission the power to limit the number and kind of articles that may be handled by a private business, contrary to the State laws and the spirit of American freedom.

Eighth. The bill gives the commission the power to name the conditions under which the packers shall take title to any commodity purchased by them, which power I fear can be used to fix the prices of live stock without any corresponding power to force the consumer to buy the products at a price to justify it or to compensate the packer for any losses sustained in obeying the orders of the commission.

The packing industry is already supervised and regulated by more laws, Federal, State and municipal, than any other industry in this country. The Federal Trade Commission has power to inspect our books and records and ascertain every fact of public interest; ascertain whether our profits are reasonable, whether our business is conducted efficiently, economically and fairly to all persons with whom we deal, including our competitors. It also has the power to prevent unfair methods of competition and to gather and compile information concerning, and to investigate from time to time, the organization, conduct, practices, and management of our business, and may require reports and answers, under oath or otherwise, as often as it may deem necessary concerning all such matters. It may also require the attendance of witnesses and the production of books, papers, and documentary evidence. It has the power to prevent packers from discriminating in price between different purchasers of our products where the purpose might be in any respect unlawful.

The Department of Justice has the power to enforce existing laws against illegal combinations, if any existed in this industry.

The Secretary of Agriculture has the power under existing law to gather and promulgate information relating to the demand for, supply, consumption, costs and prices of, and the facts relating to production, manufacture, storage, and distribution of live stock and live stock products and other commodities handled by the packers.

The Federal Trade Commission, the Attorney General, and the Department of Agriculture have the power to do practically everything authorized in the Norris-McLaughlin bill under the laws now

in force, and for the enforcement of which millions of dollars have already been appropriated, except that no Congress has ever yet delegated to them the powers to make arbitrary rules and regulations, interfering and hindering the efficient operation, or to limit the growth and extent of private business such as are contained in that particular bill.

Among the numerous laws already in force supervising and regulating the packing business may be mentioned the following: Federal antitrust acts; Federal Trade Commission acts; Federal pure food acts; Federal meat inspection act; Federal oleomargarine act; Federal butter act; Federal labor acts; Federal internal-revenue acts; Federal income and excess-profits laws; Interstate Commerce Commission regulations; Department of Agriculture regulations; State antitrust laws; State corporation laws; State public utilities regulations; State inspection laws; State oleomargarine laws; State butter laws; State cold-storage laws; State pure-food laws; State sanitary laws and regulations; State fertilizer laws; State feedstuff laws; State labor laws; State tax laws; State industrial court laws; city inspection laws; city sanitary laws; and city tax laws.

This list does not exhaust the subject but is a fair example of the extent to which this industry is now supervised by laws.

I have heretofore before the committees of Congress and in addresses made before live-stock associations, stated as my personal view that I have no objection to reasonable supervision that will enable the Government, producers, and the public to know at all times whether our business is run efficiently and economically and whether our profits are reasonable and whether our treatment of our competitors and the public is fair. But I feel it my duty as the representative of this great industry and as an American citizen interested in the future welfare and development of our country to oppose bills which I know from my own experience of more than 30 years in this industry will be harmful, destructive, and of no benefit to the interests which it is designed to help.

We must bear in mind that we have gone through a great war. The world is still in a state of upheaval. Conditions are still unsettled, adjustments must be made to new conditions before industry can become normal. There has never been a time in the history of the world when conservative, thoughtful and constructive wisdom was more necessary. Why not remove some of the legal impediments to fair cooperation?

Let us not be carried adrift into new and dangerous experiments.

Mr. TINCHER. What was that word you used—"corroboration" or "cooperation"?

Mr. WILSON. "Cooperation. Why not remove some of the legal impediments to fair cooperation?"

Your Volstead Act, for instance.

Mr. WILLIAMS. "Competition" would not be a bad word; there are impediments to fair competition?

Mr. WILSON. Absolutely.

Mr. WILLIAMS. Do you think that the Volstead Act passed by the House is a good law?

Mr. WILSON. I do not know. I am not lawyer enough to say whether it is a good law; I think the principle is good.

Mr. TINCHER. The reason I asked you about the word "cooperation" is that whenever the Government decides that Government supervision is necessary, is it not rather inconsistent to have Government supervision of an industry with laws preventing cooperation?

Mr. WILSON. I am sure there will be a conflict there, and that we should undertake to bring about proper cooperation between the different branches of the industry.

Mr. TINCHER. Along that line, when the Government took charge, it was necessary to absolutely ignore any laws preventing cooperation among the principal dealers in that product in the United States, was it not?

Mr. WILSON. Well, I know in some cases that was done and those laws were ignored. The packers are a little gunshy on the antitrust laws. We at one time took the position with Mr. Hoover that we were fearful even of the meeting he was calling in his office, fearful that some attorney general might later on say, "Why, even those meetings were in violation of the Sherman Act and I am going to prosecute you," and Mr. Hoover took the matter up with the President and the President submitted a letter to him, in effect, requiring us to go on and cooperate in that way; that it was a war measure and we must do what the Food Administrator wanted done, in spite of anything we might think to the contrary.

Mr. TINCHER. That is what I had in mind. We used to hear considerable about competition among the common carriers and then the Government decided it was necessary to have supervision over the common carriers, and the Interstate Commerce Commission through its powers has absolutely taken the common carriers out of any antitrust laws provision.

Mr. WILSON. I think so; pretty much.

Mr. TINCHER. It has been necessary to do that. Now, here is what I am getting at: Forget the packers, forget the producers, and forget the consumers and simply think of the meat industry. A great many people think it is necessary to have Government supervision of that proposition because of the fact that you know and I know that you cannot produce meat at the present prices; and you know and I know that during the war they were patriotic during those three months you mentioned, and the producers had actually produced the meat so that you could furnish it to the foreign Governments at the request of Mr. Hoover. They had all taken their sows out of the fattening pen and when the request was made a year or so ago that meat was available for you, but their margin of profit on that meat, by reason of the increased cost of the products they had to feed those animals, was very small.

Mr. WILSON. I do not think he got any too much.

Mr. TINCHER. And since the war their product has been the first to go below prewar prices.

Mr. WILSON. He did what the Government and what the Food Administration and everybody else asked him to do. He increased his production to the maximum, and, on the other hand, the Food Administrator asked the people to stop eating meat. That is the position that the war left the packer and this industry in. The consumer, on the one side, was curtailing the consumption and the producer, on the other side, was at the maximum of production, and our exports of war supplies and everything were violently reduced.

Mr. TINCHER. Here is what I am getting at——

Mr. WILSON (interposing). Now, just let me finish, please. On top of that our Government had millions and millions of pounds of fresh meats and canned meats and everything else in storage, and different from what they did in many industries, to satisfy apparently public clamor, they insisted on throwing that stuff on the market in competition with what the farmer produced at the request of the Government, as a patriotic duty; they threw that stuff on the market at prices that spelled ruination to the man who was making that fight on the farm for the country at the Government's request.

Mr. TINCHER. We are absolutely in accord as to that situation. Now, let me see if I can make myself clear on this proposition. Supervision of this industry, to be a success, must necessarily involve the right in the supervisor to enforce cooperation.

Mr. WILSON. Well, I do not know as I would necessarily have to go as far with you as the word "enforce," but I will say this to you, and to all you men: You might just as well save your time and quit further effort in this direction if the result of anything you do does not mean cooperation between the elements of this industry. You might just as well save your time, because it is not within the power of man to legislate a cure of this situation. It may do one thing, and if it does do that I think it may be justified. If it will bring about cooperation and make it possible, which has not been possible up to the present time because of many reasons, the principal one is the fact that the producers felt that they could not afford to cooperate with us while they were agitating legislation in Congress; that they could not afford at that time to cooperate because they thought it might have some effect on getting some bill through, and a lot of them, the leaders particularly, who undertook to speak for the producers, had the idea that if they worked with the packers it might defeat that purpose.

Mr. TINCHER. I do not know whether you catch my proposition. My proposition is that if the price of meat to-day was in accord with the price of the live animal, the producer would receive a better price for his animal and more meat would be consumed in the United States and the market would be better. If we are going to regulate this industry and supervise this industry, my contention is that the supervisor must have authority to permit, if not enforce, cooperation. I have this in mind: I know you can not control the price of your product to the consumer, because the minute you try to do that or try to influence the price of your product to the consumer, under existing conditions, you would force a consent decree, first, and then you would force competition with which you can have no cooperation by reason of another law, which would make you a criminal if you tried to do that.

Mr. WILSON. That is true.

Mr. TINCHER. I think we might just as well face the proposition, and I say, as the gentleman so well suggested a while ago, if these bills do not contemplate permitting the supervisor to permit cooperation or enforce cooperation—perhaps I should not go so far as to say enforce cooperation—but to permit cooperation in carrying the product to the consumer, then the bills are inadequate in that respect and we might just as well face it like little men and fix them up.

Mr. WILSON. I fully agree with you, but not maybe to the extent of cooperation that might necessarily mean a violation of any of the pending antitrust bills. I think cooperation of the proper kind might be had, for instance, under the Department of Agriculture, that would work out a lot of the problems that are present in this situation, first, by getting a clearer understanding of the problems, having each understand the problems of the other, which they do not to-day, and then together eliminating a lot of the problems that can easily be eliminated. But they can only be eliminated, in my opinion, by the proper spirit displayed on the part of all, having due regard for the great mass of people, the consumers in this country, not injuring their position in any way, but helping them, and at the same time helping the industry.

Mr. TINCHER. I agree with you. I do not think the laws that are passed to prohibit combinations in restraint of trade are a success so long as they are only applied for the purpose of prohibiting combinations to accelerate our trade.

Mr. WILSON. There was a good deal of discussion here with regard to the Grosscup injunction on yesterday, which was very interesting. I did not want to open that question up, and I do not want to prophesy, but I believe that the time will come when there will be some sort of a regulation, through cooperation or otherwise, of the shipments of these extremely perishable articles into the consuming territories. Now, that will not necessarily enhance the price at all. It does not have to. It will help the consumer and it will help the producer.

Mr. PURNELL. Mr. Wilson, your idea is, then, that you ought to have voluntary cooperation rather than one that is an attempt to enforce cooperation.

Mr. WILSON. I would say, maybe, one with the power to enforce if it did not conflict with the antitrust laws.

Mr. PURNELL. My idea is that the fact that this supervision is placed in the hands of the Secretary of Agriculture is the chief asset of all these proposed measures, for the reason that it gives the Secretary of Agriculture the power and the right to go into this matter in an unbiased and unprejudiced manner, and to clear up a lot of misunderstandings. You can not have voluntary or enforced cooperation as long as there is a feeling on the part of the producers of this country that something is wrong that they do not understand. If I have understood you correctly, I think your idea is just along that line.

Mr. WILSON. As soon as I am through with this statement, I will be glad to give you my idea which I think will answer your question.

The CHAIRMAN. You prefer to conclude your statement?

Mr. WILSON. I am through with the exception of just one paragraph, and I would like to finish that.

The experiences patriotically endured during a period of war when civilization was in the balance, has taught us many lessons which should serve as valuable guides for the future.

The difficulty you have encountered heretofore in framing a bill and the different features that have been embodied in the several measures offered is proof of the fact that a solution of the real problems involved is most difficult to obtain and can not be found by the mere enactment of drastic regulations that will take away the judg-

ment and wisdom of those who have made this great industry a success. A better understanding of each others' difficulties and a more cordial spirit of appreciation and good will between the several branches of the industry, with closer cooperation in eliminating the unscientific and uneconomic methods wherever employed, would come nearer affecting a solution of this great question.

Mr. TEN EYCK. Right there, I would like to ask you a question. From your knowledge of the trade and after listening to the previous hearings, do you think it possible to give to the government agents any additional authority over what they now have?

Mr. WILSON. I do not want to go into—and I think you gentlemen will appreciate that I have avoided any reference to the Federal Trade Commission. I do not want to get into that because I think that now is aside the question. I think we are now up to this point, and I am willing to concede this: There is a state of mind at present with the public and with the producers that is detrimental to this industry. Whether that state of mind is based on facts or not, it is a prejudice and prejudice whether based on fact or fancy is equally harmful. Now, I have reached the point in my mind where I personally think—and when I say that I do not necessarily speak for all of the packers—but I personally think that we have reached the time when, if some legislation can be worked out, that will lead toward clearing the public mind of such prejudice, that it would be very desirable from the standpoint of the packers, and I believe that all of the packers would support helpful, constructive legislation. Now, I think in answer to your question, that it may be possible to concentrate some supervisory authority in one agency of the Government, say, for argument's sake, the Department of Agriculture.

I think while he might not have greater power than could be found in some one of the existing laws now in force scattered in different departments, I think the mere fact that such power might be vested in one agency might in itself give him greater power to understand this whole difficulty, to bring these different branches of this industry together, and to work out the things that are seemingly irritating the situation.

Mr. TEN EYCK. You anticipated a second question but have not directly answered the first one. I wanted to know whether you feel it was in the power of Congress, or anyone else, to give larger authority to the Government agents in the various commissions or departments than the Government had now, or that those agents have now; and that being the case, if we turned all over under one head, could we not obtain cooperation better thereby than to have a multiplicity of people continually, from different viewpoints, asking for information and trying to regulate.

Mr. WILSON. Yes, I am thoroughly satisfied as to the latter. Whether greater power could be given, I presume it could, I do not know. You might go to the extent of Government ownership and establish regulations and laws that would cover that and give power under that.

Mr. TEN EYCK. I do not think we are anticipating that.

Mr. WILSON. Well, you will have to do that to satisfy some of the advocates of packer legislation. I will say that.

Mr. TINCHER. Government ownership would simply deprive the industry of probably the best ability in the world along this line,

which we can have by fair Government supervision without any Government ownership.

Mr. WILSON. Government ownership will make impossible what has been accomplished already in this industry.

Mr. JONES. There is nobody here advocating Government ownership.

Mr. WILSON. I am not arguing for that point, but anything that takes away the initiative, that makes it impossible for the people who are running these businesses, to do what the great founders of these businesses did, to continue what they started—I am a great admirer of those men, in spite of all of the abuses that have been heaped upon their heads—I think the time will come when the American people will put them in a class with the other great American citizens who developed this country. When I say that, I mean the originators of these businesses, Mr. G. F. Swift, Mr. P. D. Armour, Mr. Nelson Morris, Mr. G. F. Sulzberger, and Mr. Michael Cudahy. I think the time will come when the work that those men did in taking from the cross roads country slaughterhouse, from the filthy, insanitary conditions under which the meat food products of this country were handled, when they started into it, when the by-products out of which this big industry has been builded were dumped through a hole in the floor to the hogs underneath in the most unsatisfactory manner, and the meat handled in the most unsatisfactory manner, when those men made it possible to develop from that this highly scientific, technical, sensitive business, which is handling the production of the farmers to-day; I say that they are five of the greatest citizens that this country produced, and I am a great admirer of them all, and I am a great believer in the business. They had no great pattern to go by as we had in many of our other industries. We had no great men to draw on or no great pattern in Europe to draw from, as we had perhaps in the steel or textile or some of the other industries. They took the raw material, these five American men, and builded something that is unequaled in any place in the world. There is no such agency, no such fine, detailed manufacturing institution in the world as these packing plants. I say to you men that I have had a great deal of comfort and satisfaction out of my experience in the packing business, but the greatest comfort I am going to get, and the greatest satisfaction and the crowning satisfaction of my career will be when this industry is put where it belongs, where I think it belongs, and when those men are placed in the minds of the American people where they are entitled to be placed. They have had abuses that they are not entitled to carry, and this industry has had abuses and I say to you men, as has been said here, that there is no buisness in the world, in my opinion, that has the keen competition that the packing business has, and there is no business in the world, in my opinion, that is run cleaner, squarer, than the packing business to-day.

Now, you can easily go back 20 or 25 years and find faults, and I am not defending those things. We have a different vision to-day than the people of 25 years ago had, and maybe the things that we are condemning some of these large industries for doing at that time were things that through that constructive period were not condemned by the citizens, and it is hardly fair now for us to take that background, as was mentioned here yesterday, and continue with that

background, to constantly condemn this great industry, and I say this to you men, I feel there is nothing, in my opinion, to justify these measures or any measure, unless it is that one thing that I hope it will accomplish. I do not think the facts of the remote past should be now taken as a justification for extending any measure of control or even of supervision of the packing industry, but I do feel that that is necessary now to clear the atmosphere. I do feel that the people have the idea set in their minds that there is something wrong in this industry, based a good deal upon conditions that have grown out of the situation right here in Washington. I do feel that this is so set in the minds of the people that whether it is based on facts or not, it is important from my standpoint to have it cleared up, and if you can legislate in a proper way and in a way that will be helpful I think the situation may justify some legislation

I have been in the business 30 years or thereabouts. I walked into the stockyards when I first went to work there. I did not know a soul in the whole industry, not one single man, and when I went there, there was one scientific man in the Union Stock Yards, one chemist; in fact, he came shortly after I went to work there. In the industry to-day in Chicago alone, working to develop scientifically the manipulation of these by-products, raising constantly the level of value of the different products, bringing them from the lower to the higher value levels and improving the products that we are turning out, there are at least 350 scientific men, chemical engineers, electrical engineers, and all sorts of scientific men working constantly on those problems. Through that work has been developed this very technical, sensitive business, and I say to you men, too, that this business, as Mr. Oscar Mayer said yesterday, this great industry and the industry of live-stock production is not in a position to much longer stand the stress of the situation that we have gone through in the last eighteen months. I have been in the business for 30 years and never have I seen such a condition existing. And I say seriously that unless there is a change there is going to be a calamity in this country, and a big one.

I have advised with some of the farm bureau gentlemen in Chicago and I have discussed these matters from time to time. I have seen here in print what is called the Williams bill. I think that pretty nearly outlines the idea of the farm bureau people, as I understand their ideas, and I believe their ideas were based on a broad-minded consideration of the entire problem. I think in discussing it with them they showed a disposition to me, at least, of wanting to work out something that would clarify this situation and be helpful to all elements of this industry.

That bill, as I read it, is pretty much the Haugen bill with a few amendments, the one important amendment being the elimination of the Interstate Commerce Commission and throwing it all into the Department of Agriculture.

There is probably only one additional suggestion that I could make as to that bill or to the Haugen bill which, I think, is in line with the tendency of the minds of the men here as I gathered it yesterday, and that would be to entirely eliminate the Federal Trade Commission from jurisdiction in this matter. That was done in the Senate, and

as I understand it, Mr. Haugen has introduced an amendment to that effect to his bill.

That amendment with a few other changes, and making the Haugen bill conform to the idea of putting it all under the Department of Agriculture, in my opinion, would probably make a bill that we could all stand for.

I can not, as I said, speak for all the packers in that respect, but I will say this, that contrary to the opinion as expressed here, all the packers have not been opposed to all kinds of legislation. They have opposed legislation, and you men have no doubt received the impression that they would oppose all kinds, but the legislation they have opposed up to the Haugen bill and the Williams bill, contained features that made it absolutely necessary for them to oppose them, and rather than stand for such bills now, we and all the packers might as well die fighting as die by strangulation.

Mr. VOIGT. Mr. Wilson, do you want to go on record as favoring the Williams bill?

Mr. WILSON. I say that bill or the Haugen bill, with these few modifications, in my opinion, would pretty nearly cover the present situation. I think the danger here, and the danger you men should try to avoid, is in making these bills too far-reaching. I think it better to formulate a conservative bill rather than one otherwise, and I say again and want to impress upon you this fact, that any bill, I do not care whether it is drastic or otherwise, will never accomplish the results unless the agency having the supervisory power has the ability and the right to bring these different branches of this industry together, so that they finally can work out these problems.

Mr. VOIGT. You say that the Haugen bill will pretty nearly cover the situation; that is your exact language.

Mr. WILSON. The Haugen bill with these few changes I have suggested. For instance, I think it would be a great mistake to have any dual authority. I think it would not only be expensive, but I think, as the Secretary expressed it yesterday, it would complicate the situation, because there would be divided authority and you would never be able to put your finger on just where the trouble was. These transactions are so intermixed and interwoven as between the stockyards company and the commission man and the trader and the packer's buyer and the packer that it would be a difficult proposition to definitely determine the responsibility with joint agencies trying to handle it.

Mr. VOIGT. Now, you say the Haugen bill will pretty nearly cover the situation provided the supervision be exercised or the authority be exercised under the Secretary of Agriculture. What other points do you criticize in the Haugen bill?

Mr. WILSON. Then there is the elimination of the Federal Trade Commission entirely from supervision of the industry so there will be no conflict there. That, of course, is the case with the banks under the banking act and with the railroads under the Interstate Commerce Commission. The Federal Trade Commission has no jurisdiction over them.

The CHAIRMAN. The thought is to give the Secretary of Agriculture exclusive jurisdiction.

Mr. WILSON. Yes, sir.

Mr. VOIGT. You mean that any authority the Federal Trade Commission now has over your industry——

Mr. WILSON (interposing). Should be transferred to the Secretary of Agriculture, and that is in this bill. Why have two agencies exercising the same powers.

Mr. VOIGT. If any bill is passed, you would like to see the exclusive authority over your industry vested in the Secretary of Agriculture?

Mr. WILSON. That is my feeling; yes, sir.

Mr. VOIGT. Is there anything else in the Haugen bill you want to comment on specifically?

Mr. WILSON. There is one paragraph here, No. 402, on page 26. I think that entire paragraph would be very objectionable. It is very unusual.

Mr. THOMPSON. Section 402?

Mr. WILSON. Yes.

Mr. VOIGT. 402 provides that if an officer or one of the employees, agents, or directors of your corporation violates the law that it shall also be considered a violation by the corporation.

Mr. WILSON. Yes; but it goes much further than that, Mr. Voigt.

Mr. GERNERD. Pardon me, what section are you considering.

Mr. WILSON. Section 402, H. R. 14. You will find that in section 401 the corporation is held responsible for all the acts of the employees, but this other section undertakes to add this language:

> If any officer, employee, agent, director, or member of the governing board, of any packer, stockyards owner, market agency, or dealer, negligently omits personally to perform any necessary act or properly to supervise or apportion duties among his subordinates in the execution of the authority and functions vested in him, and by reason of such omission a violation of this act directly results, he shall be liable to all the penal or other provisions of this act in respect to such violation.

We have in our organization alone twenty-five or thirty thousand employees scattered all over the country, and through failure in judgment or through a lack of judgment or something else I might fail to properly supervise the division of the work among my employees, and I would not want to go to jail for that, and I would not want anybody to say that I was subject to the possibility of going to jail. I do not think that is fair.

The CHAIRMAN. Mr. Wilson, do you not think the word "negligently" would protect you to some extent?

Mr. WILSON. No; who is going to say whether that was negligent or was premediated?

The CHAIRMAN. If we substitute the word, as some one has suggested, "willfully," would not that meet the objection.

Mr. WILSON. There is everything in the other paragraph, paragraph 401, that is necessary.

The CHAIRMAN. I might say that this is a provision that has been inserted in a number of bills, but probably not exactly in this same language. I believe there was a provision like this in the grain futures bill.

Mr. TINCHER. There is a section in the grain futures bill that is comparable with this.

The CHAIRMAN. I might say that the wording of this section has troubled us a good deal. We want to get something a little stronger than what we had before and still there is the danger that has been

pointed out. There might be some way of compromising or fixing up something that would be fair.

Mr. WILSON. Section 401 is stronger than the usual provision. Section 401 says:

> When construing and enforcing the provisions of this act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, stock yard owner, market agency, or dealer, within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such packer, stock yard owner, market agency, or dealer, as well as that of such agent, officer or other person.

That is pretty broad.

Mr. VOIGT. That is quite a customary provision.

Mr. WILSON. It is broader than the customary provision. I have never seen one as broad as that; at least, I have never seen one that mentioned the packers in it before.

Mr. VOIGT. Now, you have criticized section 402, will you proceed, please, and point out other defects.

Mr. WILSON. Section 316 should be stricken out. The Interstate Commerce Commission regulations of that section are similar to the Federal Trade Commission powers which I have suggested be transferred to the Department of Agriculture.

Mr. VOIGT. You have discussed that.

Mr. WILSON. No; that is a different paragraph from the one eliminating the Interstate Commerce Commission. This section 316 provides the power for the Interstate Commerce Commission to examine books and require reports, etc., of stockyards, commission men, traders, etc. The Federal Trade Commission powers to examine books and so forth, of the packers is found in section 208 of the Haugen bill giving the Department of Agriculture the powers of the Federal Trade Commission to examine packers' books and so forth. Now, if you change the Haugen bill so as to eliminate the Interstate Commerce Commission's jurisdiction over stockyards and place packers and stockyards both under the Secretary of Agriculture, it is unnecessary to give him similar powers of both the Federal Trade Commission and the Interstate Commerce Commission, so I recommend striking out section 316 and amending section 207 so as to cover stockyards, market agencies, and dealers, and the bill will be correct.

Then there are other changes that would be necessary to insert, "Secretary" in place of "the Commission."

You will find on page 3, Title II, a paragraph in the definition of a packer, which reads as follows:

> The term "packer" means any person engaged in the business (*a*) of buying live stock in commerce for purposes of slaughter, or (*b*) of manufacturing or preparing live-stock products for sale or shipment in commerce.

Now, when you refer back to the definition of live-stock products it says, "The term 'live-stock products' means all products and by-products of the slaughtering and meat-packing industry derived in whole or in part from live stock." I think those two combined extend this act far beyond what you conetmplate. It goes into practically every industry in the country and puts it under that control.

MR. VOIGT. Do you think that it would extend to the manufacture of shoes?

Mr. WILSON. Absolutely. The hides are used there.

Mr. THOMPSON. Would it include the poultry industry?

Mr. WILSON. Well, the poultry industry is included in the definition. It would include the automobile industry because they use leather and hair, and they are by-products of the animal. It would go far beyond what you have in your minds, I am sure.

The CHAIRMAN. Do you think there would be any possibility of extending it to shoes?

Mr. WILSON. Yes; they are using hides, and under the literal construction here the hide is a by-product of the animal.

The CHAIRMAN. That is true, and the same thing true in connection with the shoe is true of the forest. They use wooden parts for that shoe. Can you suggest language that would cover that?

If you recall the cross-examination by the gentleman from Texas, Mr. Young, in the last Congress, his contention was that the packers were interested in the oil mill industry, and for that reason he claimed it should be covered in the bill. We have the report of the Federal Trade Commission on the leather industry, which was to the effect that this should extend to the tanners or the leather industry. I am simply referring to that contention and the facts brought out at the hearings, and the contention made by members of the Committee. I am quite sure there should be some limitation there, but the question is just what the limitation should be. Can you suggest language along that line? Would you change the language to include tanners?

Mr. WILSON. I really do not see the need for including them.

The CHAIRMAN. You are familiar with the report of the Federal Trade Commission?

Mr. WILSON. Yes. Of course, this would include the hide up to the time it would go to the tannery, and it would be within the power of the Secretary to ascertain that those hides went to the tanner at a fair market price, so there could not be any advantage taken back of that.

The CHAIRMAN. You think that would cover it all?

Mr. WILSON. I am sure it would. If you want to control the tanning industry, make a separate bill, and put it into some department.

The CHAIRMAN. We were taking notice of the practices pointed out by the Federal Trade Commission and the packers' correspondence.

Mr. WILSON. As I gather the terms of this bill, under this bill it would be entirely possible for the Secretary of Agriculture to see that none of those abuses such as they intimated were possible.

The CHAIRMAN. It would, up to the selling of the hide.

Mr. WILSON. Here is an entirely separate proposition. There are very many features of the tanning business that have nothing to do with the packing business. If you want to regulate them, prepare a bill and keep them separate from this; do not involve them in this proposition.

The CHAIRMAN. The question is, if the packers monopolize the tanning industry—that is the contention.

Mr. WILSON. If they did, and after the Secretary has found there is that tendency, and it is a dangerous one, that would be the time to legislate.

The CHAIRMAN. You believe in excluding them at the present time?

Mr. WILSON. Yes.

Mr. TINCHER. If the bill is extended to tanneries, the question is whether it could not with the same force be said to cover the textile industry.

Mr. WILSON. Absolutely; under a literal construction of this language it would go all the way through. You can not imagine the extent it would go to. It would go to the extent of covering soap manufacturers, the glue manufacturers, and gelatine manufacturers, and it would also include the handlers of bones used in the manufacture of toothbrushes and combs. There would be no end to the extent of the ramifications, because it would extend to every use of these products.

The CHAIRMAN. That would depend upon the interpretation of the law, but it is well enough to guard against that.

Mr. WILSON. It has been my experience, Mr. Chairman, that any commission or any department of the Government that can literally construe a law to mean further expansion, will usually interpret it in that way.

Mr. WARD. What would you suggest as a definition for the term "live-stock products"?

Mr. WILSON. I would suggest a term that would cover the situation. Take the first page, at line 11, where the definition of the term "live-stock products" begins. I would change that definition in this way, making it read: "The term 'meat food products' means all edible products and by-products of the slaughtering and meat-packing industry."

Mr. WARD. Where would you put that?

Mr. WILSON. Beginning at line 11 on the first page, cutting out the word "live stock," so that it would read: "The term 'meat food products' means all edible products and by-products of the slaughtering and meat-packing industry."

Mr. WARD. That means all edible by-products?

Mr. WILSON. Yes.

Mr. THOMPSON. You cut out the word "slaughtering"?

Mr. WILSON. I would cut out the words "derived in whole or in part from live stock." I do not see that that is necessary. Then on page 3, line 5, cut out the word "live stock" and insert the words, in keeping with the change on the first page, "meats, or meat food products." Then on line 7 of the same page make the same change, cutting out the word "live stock" and inserting the words "meat or meat food products."

Mr. WARD. Would you not put in the word "edible"?

Mr. WILSON. The definition of "meat food products" on the first page defines it as "edible" products.

Mr. WILLIAMS. Would those changes be necessary if you cut out the paragraph you have referred to?

Mr. WILSON. Yes; that does not change that at all. Of course there is no chance for any packer to escape the operation of the law. The definition of the term "packer" means "any person engaged in the business of buying live stock in commerce for purposes of slaughter."

It does not make any difference what the by-products departments are, if he is a packer he is engaged in the buying and slaughtering of live stock, so he can not escape because of this change, and any

packer who is operating any by-product departments, it does not make any difference what they are, is included under that definition, and any packer buying live stock in commerce for the purposes of slaughter is included, so it covers them all. The other clause, of course, would include everybody handling food products who might not be a slaughterer.

There is another suggestion I would like to submit in connection with the language in line 3, page 8. It reads: "The court may affirm, modify, or set aside the order of the Secretary, but the findings of the Secretary as to the facts, if supported by evidence, shall be conclusive." I would like to insert in there the words "if supported by the prep nderance of the evidence." There might be evidence that is entirely insufficient, but it would foreclose us.

There are a few other changes, more or less technical, that some of the lawyers can handle a great deal better than I can.

Mr. HAYS. Of course there is a little danger there with regard to the interpretation of the term "the preponderance of the evidence."

Mr. WILSON. Well, you might say the weight of the evidence.

Mr. LIGHTFOOT. That change was made in the bill in the Senate. The purpose was this, that if the Secretary should find that you have violated any provisions of this act, and he orders you to cease and desist from such violation, you can appeal from that order to the Circuit Court of Appeals, and he must prepare a statement of his finding of fact. As the bill now reads, if his conclusions as to what the facts are, are supported by evidence, any evidence—although the great weight of the evidence might be contrary to his judgment—the Circuit Court of Appeals would be compelled to accept them. It can not go behind his findings of what the facts are, even though he might err in judgment. The rule of evidence that has been in force in this country since the foundation of the Republic has been that in any cause of action the weight of the evidence or the preponderance of the evidence must support the judgment.

Mr. TINCHER. On that subject, do the ordinary appellate courts have the power, where there is evidence, to review the facts, or is not the ordinary proceeding an appeal to the appellate court, not to inquire into the facts, unless there is an absolute failure of proof on the proposition, thus leaving that lower court, or the jury, as the case may be, as the principal determiner of the fact.

Mr. LIGHTFOOT. It is presumed, of course, that when a jury passes upon the facts in any case that it has given its verdict according to the weight of the evidence.

Mr. TINCHER. Or the court.

Mr. LIGHTFOOT. Ordinarily, the courts would be bound to follow the conclusion of the jury on that point. But you will find that courts vary in their pracrice, and my experience has been that some of them, even when they have very little authority, will set aside a judgment because the facts do not support the judgment, and in other cases they will say, "We can not look into the facts because the jury passed on them." It depends on the temper of the court as to what its position is. I do not see any reason why we should be put in this kind of a situation, where even though the great weight of the evidence is contrary to the judgment, that the court shall be bound by it. I think we ought to leave that matter open so that the court could look into the evidence and see whether or not the weight of it has supported the conclusions.

Mr. TINCHER. I consented to this wording in the Grain Futures Act on this theory, that an administrative officer in an informal way is making his own rules of evidence and taking ex parte testimony, as he will have a perfect right to do in these proceedings, and perhaps should not be clothed with the authority of being the final arbiter of facts in the matter.

The other side of the proposition is this, that there might be a dozen witnesses testify to one fact and one witness disputing the proposition. The trial court might be absolutely warned from the demeanor and appearance of witnesses, in taking as a fact what the one witness said, and it would hardly be proper, ordinarily, to permit an appellate court to disturb that finding. It is a big question, I think.

Mr. LIGHTFOOT. It is, and let me say this in regard to that, that I think you will concede this is founded in justice. We do not care how much or how little evidence the Secretary of Agriculture may have or deem necessary to reach his own conclusions. He may take the evidence of one man, as you say, in preference to the other evidence. This is no limitation on the amount of proof or the extent or weight of it, by which he reaches his conclusions; but we do say it is unfair to us to give us an appeal, where we can take the matter before the Circuit Court of Appeals, foreclose the court from passing on that question.

Mr. TINCHER. Perhaps I am prejudiced because I have always practiced law where the rule was that where an appeal was taken, the court can not pass upon the evidence, except to find out whether there is any evidence to sustain the lower court.

Mr. CREIGH. Of course, it is not contemplated in this act that the Secretary, personally, is going to take this evidence. The Secretary is so swamped with other duties that he can not do that.

Mr. TINCHER. Here is the trouble. When you get to the Circuit of Appeals, they have rules of evidence, of course. The Secretary is not confined to any particular rules of evidence in getting his information. He may have ex parte hearings, he may take affidavits, or he may get his evidence by a route that may appear ridiculous to the circuit court.

Mr. CREIGH. After all, if it would appear ridiculous to a circuit court, then is not the defendant entitled to have it reviewed?

Mr. TINCHER. The theory of the law is not to set up a court.

Mr. CREIGH. May I make one suggestion, not to tend toward a general discussion of the question. Here is an ex parte hearing, with very definite findings, and there is a dispute about it, and it is challenged. Where is your evidence?

Mr. TINCHER. I took that into consideration in leaving that in the futures act. I am not contending that the words should not go in here.

Mr. HAYS. Your suggestion is that this be amended by inserting the expression on "preponderance of the evidence"?

Mr. LIGHTFOOT. Either "preponderance of the evidence" or "weight of the evidence."

Mr. VOIGT. I think what you want to have in there is something to make it correspond to the law in the jurisdictions I am familiar with, and it seems to me you should use the word "credible." The general rule is that the upper courts will not disturb a finding of fact in the lower court if that finding is supported by credible evidence.

Mr. LIGHTFOOT. Here is the point——

Mr. VOIGT (interposing). The upper court will not reweigh all the evidence, nor will it count the noses of the witnesses. It will see whether there is credible evidence to support the finding.

The CHAIRMAN. Mr. Wilson, are you through?

Mr. WILSON. I have nothing further to say, Mr. Chairman, except possibly this: I read over the Secretary's statement yesterday and I was rather impressed with his evidence, which fitted in with the interview I had with him. I think he rather indicated that the great problem of this industry was lack of a clear understanding of the entire situation, and I think I gathered from his talk that he thought that was the big job for the present, to understand the situation and know the industry, and have an opportunity to make proper investigations of the conditions surrounding the industry. I think he is right, but I think we are really in a position where we probably should go a little further, in view of the attitude of the public at this time, and I think I have indicated to you that if something along that line could be worked out it would meet with the approval, probably, of all the packers.

I thank you very much, Mr. Chairman.

The CHAIRMAN. I had in mind another question as to transportation and exchange as related to the declining prices. To what extent does that affect export? We are at a disadvantage on account of exchange?

Mr. WILSON. The exchange affects it very materially I think after all that is going to be a very controlling proposition in the industry. If we are not going to be able to move our surplus products—we are producing a surplus—and then build up on that basis, our only outlet is export. If we can not find some way to make it possible for the surplus production in this country to go to Europe, we have got to back up on production, and the only way that I see by which that will be possible will be to find some way for the American people, through the Government or otherwise, to make investments in foreign countries that will establish credits over there and will enable those people to make purchases in this country.

The CHAIRMAN. The high rates of transportation are also a factor.

Mr. WILSON. That is a very important factor, although the marine rate is not so important as the inland rate at the present time.

The CHAIRMAN. Your rates are much higher than the rates from other countries?

Mr. WILSON. The marine rates; but our inland rate is very much higher, and other countries are in a happy position because most of them have their industries located on the seaboard and do not have to compete with our inland rates except on their live stock coming in.

The CHAIRMAN. Are you at a disadvantage as to wages paid?

Mr. WILSON. Yes; we are on a very high level.

The CHAIRMAN. Have you made an investigation of that?

Mr. WILSON. We are on a very high level as to production as compared with South America.

The CHAIRMAN. South America is your competitor?

Mr. WILSON. South America is our competitor on beef. We have no very large competitor on pork products, except probably Denmark. South America is gradually doing more in that line, par cularly Brazil and Argentina. We have a little competition from China, but on a very inferior grade of stuff, so it is not serious competition.

The CHAIRMAN. The competition of Denmark is not considered serious, is it?

Mr. WILSON. Denmark is considerable of a factor, and then the local production in this country is a factor. The Irish production is quite a factor in the English market, and the English production itself cuts some figure. Of course, central Europe is in bad shape just at present. They are sorely in need of our products; if we can find some way to make it possible for them to establish credits, they would use considerable quantities of our pork products.

The CHAIRMAN. The fact remains that it takes time to cure that situation.

Mr. WILSON. It takes more than time; it takes some intelligent action.

The CHAIRMAN. Time and intelligent action. Is there anything that you could suggest, by way of legislation, that would be of any assistance?

Mr. WILSON. I do not know.

The CHAIRMAN. That might properly come before this committee.

Mr. WILSON. I know the trouble. I know the American people, in my opinion, have to find a way to make investments, permanent investments, in foreign countries, as England did after our Civil War in this country. They made investments here and helped us with our railways. We have the money here and we must find some way to make those investments over there and make it possible for those people to reestablish themselves, and in that way improve the rates of exchange. We have, of course, the Foreign Trade Finance Corporation in the process of organization, and if some support could be given to them in some way or other, if the Government could get back of them in some way, it would be very helpful. That is a step in the right direction. The trouble is in finding a way to establish credits over there, to improve the exchange rates.

The CHAIRMAN. Are there any other causes you care to comment on?

Mr. WILSON. I think we have pretty fully covered them.

The CHAIRMAN. I mean in regard to the difficulty we are up against in the matter of export.

Mr. WILSON. I think not. I thank you very much, Mr. Chairman.

Mr. WARD. Mr Chairman, I desire to make a request for hearings on House joint resolution 78, beginning Thursday, May 19, 1921, at 10 o'clock a. m.

The CHAIRMAN. The committee will take your request under consideration.

(Thereupon, a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 2.30 o'clock p. m., pursuant to recess, Hon. Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. The committee will come to order.

I have conferred with the parties who are here in the interest of the bill, and they seem to be quite willing that we should yield some time to the opponents of the bill, inasmuch as they were kind enough to yield time to the Secretary. How much time do you think you want?

Mr. CREIGH. I should judge, Mr. Chairman, that we would not want any more than half an hour.

The CHAIRMAN. Is it agreeable, then, to the committee to hear them not to exceed three-quarters of an hour?

Without objection it will be so ordered. Mr. Lightfoot, you have a statement?

Mr. LIGHTFOOT. Mr. Chairman, while Mr. Nash was on the stand some of the members of the committee asked him to point out some of the respects in which he thought that the report of the Federal Trade Commission with relation to the packing industry contained misstatements or errors, and he has written his statement, being unable to remain in the city, and I have been requested to have this put in the record in answer to and in response to the request that was made by members of the committee. And if it is permissible, I will just hand it to the stenographer and ask that it be incorporated in the record.

The CHAIRMAN. Without objection, it will be so ordered.

(The statement presented by Mr. Lightfoot on behalf of Mr. Nash is as follows:)

MAY 5, 1921.

Hon. GILBERT N. HAUGEN, *Chairman House Agriculture Committee,*
Room 452 House Office Building, Washington, D. C.

DEAR SIR: Pursuant to the committee's request that I supply it with facts indicating the inaccuracy or the unfairness of the Federal Trade Commission's report concerning the meat-packing industry, I herewith call the committee's attention to the following:

In a summary in part 1 of the commission's report on page 24 at the end of the third paragraph the statement is made that the five larger packers "hold the fortunes of their competitors in their hands." On the same page, second paragraph up from the bottom, it is asserted that "the competitors of these five larger concerns are at their mercy because of the control of the market places, storage facilities, and the refrigerator cars for distribution."

I deny that either of the above statements are true. I have been in the packing business as a so-called independent packer for the last 25 years and I most emphatically deny that the five larger packing companies, either individually or collectively, hold the fortunes of myself or my company, the Cleveland Provision Co., in their hands. We compete with all of these larger packers every day in both the buying of live stock and the selling of the finished products.

I also most emphatically deny that "the competitors (of which I am one) of these five concerns are at their mercy." Neither I nor any so-called independent packing company I know of are at the mercy of the five concerns named. They certainly do not control market places in which we deal. They do not control the storage facilities which we use, and they most emphatically do not control the refrigerator cars we use. The Cleveland Provision Co. owns nearly 200 cars of its own and many other so-called independent packing companies throughout the United States own their own refrigerator cars. These cars are controlled by nobody but the companies to which they belong.

I call your attention to the list of commodities produced or distributed by the five larger packers as it appears on pages 96, 97, 98, 99, 100, 101, and 102 of part 1 of the Federal Trade Commission's report.

To my mind this list is a most glaring example of the methods employed by the Federal Trade Commission in its attempt to bolster up a weak case against the so-called Big Five. The Commission makes it appear in the report that the packers are handling 639 different commodities. This apparently was done for the purpose of trying to convey the impression that the packers were handling such a large number of commodities that they were a great menace. There are just a few of these items on this list that I desire to call your attention to. For example, the commission lists as separate items and separate commodities, beef tougue, beef tongue fresh, beef tongue cured, ox tongue, pickled tongue, potted tongue, and smoked tongue. As a matter of fact all of these are one commodity. The list contains 37 different kinds of sausages, including duplications, and presents them in such a way that makes it appear that 37 kinds of sausages are 37 kinds of commodities. There is even listed as two separate commodities "dried sausages" and "dry sausages."

As presented the report to my mind clearly shows the exaggerations indulged in by the commission throughout its report. The list is a typical example of the Federal Trade Commission's methods.

Further, Chairman Colver in many public speeches and in statements before committees in Congress made the deliberate and flat assertion that the five larger packers operated 1,000 retail stores in England. Mr. Colver said information proving his assertion would appear in a subsequent part of the report, which at that time had not been issued. This charge was published in newspapers throughout the world and was presented in such a way as to make it appear that the packers were grasping for the retail business in England. A year or two after the charge was made public by the chairman of the commission, part 4 of the commission's report was given to the public. This report bears on its cover the date 1919. As a matter of fact it did not come from the presses of the Government Printing Office until 1920. When part 4 was finally issued it was seen on page 43 that the commission had added a footnote reading "since this section was written (containing the statement regarding the 1,000 retail shops) the larger packers have publicly denied that they have any retail shops in England or presumably in the United Kingdom. The commission has made no investigstion of the matter, relying entirely on the accuracy and trust worthiness of the document cited." It seems to me that the commission went out of its way in this instance to give publicity to a statement which, if true, was of grave importance. The commission should have had no difficulty in proving or disproving the charge made and although the footnote was added, the harm to the larger packing companies was done more than a year before the footnote appeared and to this day, so far as I know, neither the Federal Trade Commission or Mr. Colver have made a public correction in the newspapers of this harmful and totally false accusation.

I also wish to call your attention to part five of the commission's report dealing with profits of the packers and to statements made in the report on profiteering transmitted to the Senate in response to Senate resolution of June 10, 1918. This report was printed as Senate Document No. 248, Sixty-fifth Congress, second session.

Throughout part five of the commission's report the commission indulges in unfair inferences similar to the one appearing on page 18, where it says "while it is known that profits in certain years are not accurately reported by the packers," etc. This is merely a broad statement made by the commission and nowhere in this number of the report or any other number is any proof offered that the packers did not accurately report profits. Part five of the commission's report reeks with instances similar to the above which will present themselves to any casual reader.

On page 14 of the commission's report on profiteering made to the Senate the following appears: "The profit taken by Morris & Co. for the fiscal year ending November, 1917, is equal to a rate of 18.6 per cent on the net worth of the company (capital and surplus) and 263.7 per cent on the three millions capital stock outstanding." The charge that Morris & Co. made 263.7 per cent on its capital stock outstanding, published in this manner, is distinctly unfair to Morris & Co. and was intended to create a false impression of facts. The truth of the matter was that Morris & Co. had not capitalized a large part of its investment. The company, for reasons of its own, was greatly undercapitalized and this gave the Federal Trade Commission an opportunity for it to endeavor to convey to the country the idea that Morris & Co. actually was making a profit of 263.7 per cent. Mr. Colver used this figure in many statements and public speeches in various places throughout the United States.

In the report to the Senate the Federal Trade Commission uses the term "an exposition of the excess profits of four of the big meat packers." The report then declares that "in the three war years from 1915 to 1917 their total profits have reached the astounding figure of $140,000,000, of which $121,000,000 represents excess over their prewar profits. These great increases in profits are not due solely to increased volume of business." The report then says during the period mentioned the return of profits "increased 400 per cent," or two and one-half times as much as the sales.

As a matter of fact, the increases in profits during the years mentioned did not constitute an increase in the rate on the actual investment. The volume of profits did increase very materially, but this was solely due to increased volume of business. This readily can be understood when it is known that in March, 1913, the United States exported only 770,302 pounds of fresh beef, whereas in March, 1918, due to the demand produced by the war, we exported 62,064,261 pounds, or more than eighty times as much as we exported in March, 1913. Exports of other meats increased proportionately. I do not have the 1917 figures before me at the moment, but you will find that they approach the 1918 figures. In such instances it is quite natural that when the volume of the beef business alone increases eighty times in the period from 1913 to 1918 that the volume of prices should increase also. In every document it has issued the Federal Trade Commission has, by innuendo, suggested that the packers' accounts were not fairly representative of real profits, but the commission has never produced an iota of evidence to this effect.

Despite the Federal Trade Commission's attempt to convey the impression that the packers' profits were exhorbitant, it may interest you to know that the United States Food Administration in its report for the year 1918 states that the profits of the packers on controlled products were 5.6 per cent of the total investment for the year, as shown by audited accounts. This was considerable less than the maximum profits allowed and on the gross sales this profit represented a percentage of only 1.6 per cent. Figures which have been subject to audit by the Federal Trade Commission prove that the average profit of the packer per dollar per sale has been about 2 cents.

In part 2 of the commission's report the statement is made that the packers had an agreed price for lard compound. The commission, by inference at least, attempted to show that this was an evidence of combination and collusion among the packers. As a matter of fact there was an agreed price for lard compound, but the agreement was made at the direction of the United States Food Administration. Although the Federal Trade Commission spread this lard compound agreement throughout the length and breadth of the country as an evidence of combination and collusion of the packers it has to this day never publicly corrected its false statements and inferences. Had the commission desired to be fair it should have given publicity to the fact that the agreement mentioned was made at the direction of another agency of the United States Government at a time when that agency was in a position to control not only prices but profits as well.

The above are only a few examples of the inaccuracies and exaggerations in the Federal Trade Commission's report. The whole report is filled with examples of the same kind but to detail each one of them would, I fear, be a burden upon the time of your committee.

Very truly, yours,

S. T. NASH,
Vice President.

Mr. LIGHTFOOT. Mr. Creigh wishes to be heard.

The CHAIRMAN. Very well, we will hear from you, Mr. Creigh.

STATEMENT OF THOMAS CREIGH, REPRESENTING THE CUDAHY PACKING CO.

Mr. CREIGH. Mr. Chairman and gentlemen of the committee, more or less in and out of the program here I, as representing the Cudahy Packing Co., have had quite a little bit to say. So I want to cut that time out of whatever time we properly should have now, and I will try to be brief.

I was so much pleased this morning with the general attention that was paid by the committee in its very full attendance when Mr. Wilson was speaking, and what impressed me so much was the eulogy that Mr. Wilson paid to the pioneers in the packing industry. I thought the committee really took him pretty much at face value with respect to those men and what they have done. And then in the second place I thought that even though Tom Wilson might not have been a pioneer, he was pretty near in the same class with them, and his statesmanlike manner of handling the thing would have done credit even to the pioneer stock.

Now there has been so much said in all these committees here about this Federal Trade Commission report. This morning the whole hearing, the whole situation, had a so much higher atmosphere than that sort of thing.

There are many morals that I would like to point out with respect to the construction of these bills here and their defects and unfairness to the industry as well as to individual firms. I shall need to point back to what happened these long years ago now with the Federal Trade Commission. But I do not desire to get this discussion down from the higher tone we had this morning. I should like

at any other time to talk at any length with you people on what I think—and I try to be dispassionate—on what I know was a great injustice that was done to a very important industry. I do not think that should be material now. I am saying this at this time not to divert the attention of anyone who might want to ask me about any of those things but just to get into the record two thoughts: First, not only now, but even from the very first day, years ago, when the Cudahy Packing Co. people saw that report, we have challenged its accuracy as regards our interests in every respect, and we can demonstrate, I think, at any time that what is said is, first, not true, and, secondly, that the inferences drawn are entirely unjust.

Now, as I say, I put that in just to keep the record clean. I don't want to go into the discussion now because I want to help bring this thing out where I believe it will be more helpful to the committee.

Mr. CLARKE. Just a moment, right there. For how long have you been willing that proper official authorities should come in and have all of your records so that they could study them and investigate them, etc.?

Mr. CREIGH. Well now, Mr. Clark, I happen to have been one of the people, I think, in this country who perhaps put in more work than most anybody else, outside of Congress, in helping toward the passage of the Federal Trade Commission act. At that time I thought it was a great, constructive piece of legislation. I thought it was going to be helpful to business. I still think there are infinite possibilities for good in that act, but I will tell you that if ever an optimist on constructive legislation, dreaming of what might happen in the way of constructive and beneficial results, received a disillusionment from what actually did happen in regard to legislation of that kind I got it, because I have been in the very front of the firing line on this Federal Trade Commission situation ever since it came into being.

Now I don't know how many of you may be familiar with the Federal Trade Commission act. I will assume that a lot of you probably are, but you won't mind if I just call your attention to one or two things that are there. That is what puzzles me so much about all of this situation.

Now here is the Federal Trade Commission act that was passed September 26, 1914. And after the usual definitions common to such bills there are two general sections, one is section 5, "that unfair methods of competition in commerce are hereby declared unlawful." Then there is a long procedure outlined.

Now here is the packing industry, and here is the Federal Trade Commission report against it, and here is charge after charge that unfair practices have in the past been indulged in. It is charged that there have grown up many unfair practices and that there have been violations of law, and yet this act is now nearly seven years of age, and the commission had for years all this stuff before it and with all that, I know of not a single complaint that has ever been filed against a packing company referring to any of the items that are now charged to be so wrong. Now just think of that situation. The Trade Commission with many, many volumes of complaints and charges, with ample machinery in its own act, and no commplaint ever filed that touched any of these things.

Now I must qualify that in one respect. There are a series of complaints filed involving certain subsidiary company holdings of the packers, and those are progressing in an orderly way, and ought to be finally decided in a correct manner. That is somewhat judicial. They are outside of the atmosphere of all this hurlyburly and sensational stuff. And there is also one other complaint that was filed against Wilson & Co. on the theory that the selling of some product alleged to be inferior—but which later turned out to be not so—was an unfair method of competition.

Now I think I am pretty fairly familiar with the commission's docket. I will have to qualify my general statement one time more. There was a complaint filed against the Cudahy Packing Co. We wanted to have a test case. What do you suppose it was? Any of these packing-house practices? No. That we made "Old Dutch Cleanser," which all you gentlemen possibly know of, and that our system of selling it was supposed to be not in accordance with the law. We worked out that proceeding in an orderly way—in the correct way under the act—to a conclusion that I think was just.

Now, as to all this packing-house business, all the machinery of the Federal Trade Commission, and all these rules, and so on, and nothing in the way of a single complaint as to the packers' general practices that I know of filed as to any of them.

Now, as regards what we may call "having access to books." Let us take section 6 of this same act:

"The Commission shall also have power," now listen, "to gather and compile information concerning and to investigate from time to time the organization, business conduct, practices, and managements of any corporation engaged in commerce," etc. Now, let us go ahead:

"To require, by general or special orders, corporations engaged in commerce to file with the commission in such form as the commission may prescribe, annual or special, or both annual and special reports, or answers in writing to specific questions," etc.

Ample authority under the law, plenty of it right now.

And not only in the Trade Commission itself. The Bureau of Markets now performs a service, and this, that, and other bureaus a similar one. Our chief trouble on the end of giving out of information is that we have so many of them that it is almost an intolerable burden at times.

Mr. ASWELL. Did you support this measure? Did you support the passage of this act, Mr. Creigh?

Mr. CREIGH. I certainly did. And as I say, I certainly was disillusioned as regards its being a constructive piece of legislation, as I hoped it would be. What I hoped would come out of that act was very different from what came to the packers.

Now, as regards the publicity, item F: "This commission is to make public from time to time," etc., as far as the legislation goes everything there would under existing legislation work out sensibly if properly handled by the Trade Commission.

Now, let us get down to one of the other features that perhaps Mr. McLaughlin will be interested in. Here is the Trade Commission act covering a procedure in regard to unfair methods of competition; very much like what is in his present bill. Now let us look at the Clayton Act. Section 11 of it vests the Federal Trade Commission

with the authority to enforce compliance with certain sections. Those sections of the Clayton Act are Nos. 2, 3, 7, and 8.

Now, I won't take the time to read them, but No. 2 applies to certain classes of discrimination. The very same thing, Mr. McLaughlin, that happens to be in your bill there, and with a thorough procedure. And yet, again there have as yet been no complaints, and no proceedings, with the possible exceptions I have named. None that go to the very things that are charged in this big voluminous report to be so wrong. None of them have been proceeded on at all. And the packer, in the face of these reports here, condemned to the public and having had no day in court at all. In my case I have tried and tried and tried to get a hearing before the commission, challenging them to produce the evidence.

Now, as I say, I want to pass all that. No complaints have ever been filed, no proper hearing ever had, and yet reports and charges heralded abroad. I think an injustice has been done. They may have their side to the story. But we have not yet, on the packer investigation, with all this expenditure of money and time and effort, gotten to the point where even now this committee is satisfied that it has the information. Yet here is already sufficient law. And I venture the assertion that a million dollars has been spent by the Federal Trade Commission in getting this far. Now I am not very enthisuastic as to what will happen in their jurisdiction. Now let us see what we can do.

This morning, as I say, I thought Mr. Wilson's treatment of the subject was very statesmanlike. Of course, it might be said that it would not be right for me to agree with him in all respects, so here is where we will disagree just a little.

While I have been down here I have been very much interested in reading the bill recently reported by this committee, House bill 5676, on the subject of future sales and trading in grain. Now, of course, I don't want to get into the merits of future trading, but I want to compliment the committee on what seems to me one of the most sensible ideas in the world. Your provisions here of sections 5, 6, and so on, under which boards of trade, the existing machinery of business, with all their rules and standards and grievance committees, and what-not, are in effect incorporated reasonably into a national system, with some supervision by the Secretary, and then go ahead and adjust business to present forms. Now, that is sensible. There is such a distinction, gentlemen, as we work along here, between what we call "supervision"—the word is used very inexactly by most of us—and what we call "regulation."

We have had a lot of talk around the table here during the last few days on the act to regulate commerce, and on the proposition of the abolishing of rebates, and so on. Now, let us stop and try to philosophize about that just a minute. What did all that come to, really? In the old days of wide-open competition between carriers there were certain laws that were openly violated. How? Giving rebates is one form of it. What was the rebate after all? It was the form of competition that was left open to the carrier upon which he cut his price to certain customers. Now, that was your competition. This wide-open competition business. And the rebate was the thing practically that was almost the sole field left for the carrier to compete in. Now it has changed. The rebating, the cutting of prices, in other words, was prohibited; it became an offense.

Now, how many packer ills that we have been discussing around the table here are, possibly, caused more by too much competition than by too little? The carriers certainly, and the general public, have not been hurt by getting to some basis, by trying to regulate or supervise or even prevent their competition. Now, I don't want to get down to the point where there is no competition, but I certainly think that by exercising the normal machinery of business toward fair practices, reasonable regulations, standardized grades, ordinary conduct of business—all those things that stabilize and tend to make business more fair and make business more efficient—I certainly think that that is a wonderful field to work in. And I think that there can be no question as to the effectiveness of that, as against regulation, where the Government employee, or the changing Secretary, or the assistant, who must be paid a small salary, gets to where he can regulate—that is, tell Tom Wilson and the rest of them how they shall conduct their business. Isn't that a strange idea?

I want the Government to function from the standpoint of what I will call supervising. I think the function of the Government is to come in, and as between a packing company and a producer who may be aggrieved, or a consumer who may be aggrieved, afford a mechanism where the difference can be promptly adjusted between the contending parties. That is the Government's proper sphere. But the sphere of doing it itself, or of regulating and controlling day-to-day management of a private business, is not.

Now let us try to work that out back again to the carriers' situation, and the act to regulate commerce.

I have been before that commission many, many times. In the old days I suppose it was true that the shippers generally thought very well of the commission, perhaps because it was quite generous in the reduction of rates that were granted in many hearings. I do not blame the commission for the condition that the carriers are now in. I do think, though, as you study the later amendments to the act that you will find that one of the large features of difficulty in the present situation is that the early policy of making the commission the arbiter, the judge, if you please, in some proceeding, to decide matters between two contending parties, has been abandoned in the later years. More and more the commission has been put into the regulation field, the control field, telling the carriers what they shall do, and I think every inch of progression toward control and operation in an executive way has been to the detriment of the carriers and of the public, and even to the Government. The Government's sphere is not in operation. The Government's sphere is confined to supervision and judicial decisions between contending parties. Now there is the big principle as I see it and as applicable to the bills I am now discussing.

Let me take up these propositions further. First we have got to consider this whole governmental theory of competition in business. We talk about the commerce act being an improvement. Of course it was. But notice the philosophy underneath it. It is that the regulation, almost the elimination of competition, was to the benefit of everybody.

The second principle I would emphasize is another thing—the distinction between supervision and control or regulation which directs.

Now, here is the third thing: I believe the packers have had the most difficulty in getting it across to the public—the fundamental distinction between a packing business and, we will say, a steel or the ordinary manufacturing business. The raw material for a steel corporation is the ore bed lying in Minnesota or in Alabama or or any place where it may happen to be. It is not subject to very great deterioration. When the demand is not there, why, the ore lies in the ground.

Now, what is the packers' source of raw material? Anything that he can control? Not in the slightest degree. Here are millions of farmers and live-stock producers scattered all other the country, very much unorganized, subject to every sort of a fluctuation, moving independently in this way, and that, with respect to our raw material. Now, will they wait for the packer? No; the finished animals can not wait. The packer has no control over the sources of production nor over the time it will arrive at the market. The packer has no control over the physical aspect—the being able to keep it. Now, isn't that a marked, fundamental difference between the two?

Now, which would be the more easy to regulate, if the Government came to do it? The industry which works on a basic raw material which is relatively stable, latent in the earth and easily secured when needed, or this delicate thing of a perishable nature, with fluctuating markets and infinite complexity, and grades and kinds without end, so that even the men in the business who have been in the business for 30 years, none of them profess to know all about it. Such a difference is so vital.

Now, let us go to the other thing. This talk about the packers making the price. I have heard a lot of you around the table asking as to whether the packer would be not able, as to a certain expense, to put it into his price. Why, I think that would be true with the ordinary manufacturer, working with a commodity like iron, or something not perishable. But stop and think about it a little. The farmer makes a very frequent complaint, and, I think, quite a justified complaint, that he has little to say as regards the price that he is to receive for his live stock when it reaches a market. When it is prepared and ready for market it has got to be sent, it has got to be sold. That is true. But now look at our position. For every carload of beef cattle or hogs that a single farmer may have to send to market, here are the great packers who will be owning thousands of heads of the same animals either in process of preparation or in their selling agencies for purposes of sale. Now, when we get down into the handling of a perishable commodity at a branch house, with more and more of the stuff pushing along the line, coming down there, the packers simply have got to get out, and sell the stuff and keep on selling it. He is in practically the same position with the completed, perishable material as is the farmer with the animals at the stockyard. It simply has got to be sold.

And the only place in the world, in my judgment, that any real assistance can be given to the public is by getting away from the prohibitions of the Sherman Act here which more or less makes a realm of doubt as to how or how far packers may cooperate to stabilize the marketing of a product and to reasonably regulate their shipments into a market with reference to its demands. If you will pro-

vide some mechanism under which we can get into that field with all the supervision and knowledge and publicity in the world about it, there is the greatest chance to really save the consumer an enormous amount of money; to make the packer's business more profitable, and being more profitable he can go right straight back to the live stock producers and help them. But with these principles I have mentioned, and then with all the competition, and with all the uncertainty working in there, we are simply trying to run the country now, when cities have grown up, on the basis of rules of law that seem largely to be adjusted to the old country store ideas of 50 years ago. And it doesn't work. It can't work. And that is the place where some help can be given.

Now, I don't want to go so far as to fix the price. I want plenty of competition. But there are wastes in everything of that kind that can be eliminated and reduced, and what is to our benefit is to the consumers' benefit and to the benefit of the producers. I would like to see some effort made to work in that field.

And along that line I tried at one time to sketch out a little bit of a bill, that I thought might do some good even, and I am going to leave that bill here with you as a part of the record. It will be a sort of a curio if you ever get to reading these proceedings at some time in the future. But what I put into this bill, that I am going to read to you here now, is a proposition embracing the idea, beginning at section 10, of having the present exchanges in all the live stock centers here, put on a basis where they would file their articles and their rules and regulations and their grievance committees and all that machinery, with the Secretary of Agriculture. And then he can approve them and see that they are all fair, and then let the exchanges work these things out as business men. Why, what I have written in here is so much similar to what you have in the grain bill—preserving the business machinery and letting the regulating be done pretty well at home—that I am beginning to wonder whether perhaps, having thought this out so well as to grain you may not see some little benefit to the other proposition in that point.

This section in here is largely drawn on the Canadian live stock law idea, and I think Mr. Anderson in the first presentation of his bill a year or more ago, put the Canadian bill in the record. It has been commented upon very favorably by Senator Kendrick, I think, in his talk on the Gronna bill in the last session of Congress.

Now I am going to take the time of the committee only for one further proposition.

The CHAIRMAN. Let me say, in that connection, we conferred with the representatives of the live stock exchanges on the matter, and I know of no objection to incorporating that into the bill, but I think we all agree that it is covered in the bill; that it is provided for in the bill, inasmuch as the Secretary deals directly with the members thereof, and would have jurisdiction over the live stock exchange.

Mr. CREIGH. That is right, Mr. Chairman, unless the fundamental difference is that, in the bill, you are trying to regulate the exchange through the Secretary. Under my idea I would see to it that the exchanges' rules and everything are fair, and then let them do the regulating. You see there is a fundamental difference there. Business can run one way and it can not the other.

Now, the only other point that I want to get at is in the Haugen bill. Take the Haugen bill, if you please, section 204.

Mr. TEN EYCK. What page is that?

Mr. CREIGH. On page 5 of the draft I have of the Haugen bill. Now, in this little draft of a bill that I have prepared I have drawn, section 13 will about match the idea of section 204. Now notice if you please that section 204 reads:

> Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this title' he shall cause a complaint in writing to be served upon the packer, specifying the alleged violations, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded th packer a reasonable opportunity to be heard in person or by consul and through witnesses.

Now, I have had in mind so much, as you can see here, this ex parte procedure on the part of the Federal Trade Commission in the packer case, that I sometimes wonder as I read this section here, exactly what is written into it in technical detail. Here it says that the packer, a complaint being filed, "shall be afforded a reasonable opportunity to be heard in person or by counsel." Now, it is very obvious that before the complaint can be prepared by the Secretary he must have had a whole lot of evidence, or people writing him letters or making the complaint. There is nothing stated in here that at the hearing which will be afforded the packer, the evidence in the case should be presented. Nothing in there that when the packer is afforded a hearing he shall have the right, as a matter of right, to cross-examine the witnesses who may at some other stage of the matter have appeared against him.

Mr. KINCHELOE. You mean in the proceeding before the Secretary of Agriculture, in the initial trial before the Secretary of Agriculture?

Mr. CREIGH. Yes, sir. Now the appeal provision comes along and says that the Secretary of Agriculture shall make a transcript of the evidence, if you please, and I say that under the procedure here it is thoroughly possible that the defendant who may have had a hearing may never, until he gets to the Circuit Court of Appeals, have had a chance to look at the evidence upon which the finding has been made. He certainly in this bill has not the right to cross-examine a single witness.

Now, those things might and possibly would be taken care of by the Secretary in making his regulations for procedure. But I do think that everybody in the packer world would feel considerably more relieved if there was written into section 204, or these other sections in the other bills which correspond to that, something like this, about—and this is the section 13, as I had it in what I say is the bill that I prepared, and which I am going to place in the record:

"Whenever the Secretary has reason to believe that any dealer has violated"—dealer means a packer here—"or is violating any provision of this title, he shall cause a complaint in writing, together with a brief statement of the facts in support thereof"—you will notice here that in section 205, and in the other sections in the other bills, that the packer might be adjudged guilty of a violation that was not even the one in the complaint.

Mr. PURNELL. It provides that the complaint shall specify the alleged violation.

Mr. CREIGH. Well, I should say "specifying the alleged violation" is quite different from "together with a brief statement of the facts in support thereof." Any one can easily make a complaint, but we ought to have a statement of the facts upon which it is based.

Mr. PURNELL. I see.

Mr. CREIGH. Now let us come to item B, if you please, in the Haugen bill. It says:

"If, after such hearing, the Secretary finds that the packer has violated or is violating"—what? The law, "as charged in the complaint"? Why no. It says, "or is violating any provision of this title." That is one of the most curious situations, when you come to think about it. Not only might it occur that the evidence would not be known, but you may be found guilty of something different than that with which you are charged. Now I know that those things are purely inadvertent. We all want to work this down to some fair and definite basis.

I will now finish the reading of this section that I was proposing.

Mr. VOIGT. Now just a minute, there. If the Secretary causes a complaint, in writing, to be served on the packer as provided by section 204, doesn't that give the packer specific notice of the charge against him?

Mr. CREIGH. Well, now, it is made unlawful for the packers "to engage in or use any unfair or deceptive practice in commerce." I say that under this language here a complaint might be filed even in that elastic fashion.

Mr. VOIGT. Do you mean simply alleging those words?

Mr. CREIGH. Why, it says, "complaint in writing"—"specifying the alleged violations."

Mr. VOIGT. Why, yes; that would be like any other complaint; give you notice of what is claimed against you.

Mr. CREIGH. Well, isn't this provision of mine more fair: "He shall cause a complaint in writing, together with a brief statement of the facts in support thereof, to be served," etc?

Mr. VOIGT. That is, you would want this bill amended so that when the complaint is served on you you are also given a copy of the evidence on which the complaint is based?

Mr. CREIGH. Well, "a brief statement of the facts." Because, although I am going to hear the evidence at the hearing, yet if I know the facts in advance I might want to say, "Sure, enter your order to cease and desist." If I know the facts I might be willing to say, "I know what it is all about; enter your order."

Mr. VOIGT. Well, now, when a complaint is filed in court where a man is sued—a complaint is either served on him or filed in court—he is not given any notice of the evidence against him.

Mr. CREIGH. Well, but wait a minute. Certainly in every pleading that I know anything about he is given, not the ultimate facts or evidence, but he is given something in the way of an alleged statement of facts.

Mr. PURNELL. Not under the code, as a rule.

Mr. CREIGH. Well, under the Nebraska code, I am thinking about, we get it.

Mr. PURNELL. Well, I am thinking of the Indiana code.

Mr. KINCHELOE. I understand your objection is that in the initial trial before the Secretary of Agriculture that all you are furnished

with is a statement setting out the violations, and that you are denied knowledge of the facts upon which that complaint is based, when you go to trial before the Secretary of Agriculture?

Mr. CREIGH. Quite true.

Mr. KINCHELOE. And that you can not know the facts upon which it is based until you get into the circuit court of appeals under this section?

Mr. CREIGH. Well, in the way it is written there I may not know the facts until then.

Mr. KINCHELOE. Except under his rules and regulations.

Mr. CREIGH. Yes. In the first place section 204 has a grave defect in that the complaint is not necessarily such as to tell us what actual matter is being charged.

Mr. VOIGT. Well, do you really think that any Secretary of Agriculture would be so asinine as to serve a complaint on anyone that did not state the facts in the case?

Mr. CREIGH. Well, now, let us not put it in terms of asinine. Of course I would not say that. But I certainly, in connection with Government practice here involving regulations and charges and all of that, in nearly every bureau of the Government find it one of the most difficult things in the world to get the Government in advance to go definitely on record as to exactly what it is that they are claiming. Now, I can see no reason in the world why it should not be specifically written in the complaint. I don't want all his evidence, but I can see no reason why the complaint shall not at least have a brief statement of the facts. As I say, if I could see what it was that they were making complaint about, I might want to have the order entered up immediately, and be glad to do it, without coming to Washington to find out, or waiting for a hearing to come along, thus saving the Government and myself expense.

Mr. VOIGT. It is provided in lines 14 and 15 that the Secretary shall cause "a complaint in writing to be served upon the packer, specifying the alleged violations."

Mr. CREIGH. Yes, sir.

Mr. VOIGT. That looks to be reasonably sufficient to me.

Mr. CREIGH. Well, now, my point is that no language could be more indefinite in the way of specifying violations than this language in section 203. Just think how wide they are. Here is a prohibition against unfair or deceptive practice. Now, that is a violation—"a deceptive practice." Now, you may say that we have some deceptive practice that we have been using here in connection with our selling business. We would not necessarily know what it was. Under the meat inspection act, under the term in the act preventing the use of a deceptive term, why the Secretary even now fixes the formula for the making of sausage, because he says, "If you don't make it according to my formula you can not call it sausage because it will then be deceptive." Now, look at that for a stretch, if you please, upon indefinite language.

Now, I haven't anything against the meat inspection act, but as I say, there are extreme cases of stretching the language and making it apply in some very strange ways. There are so many unusual and utterly unexpected things brought up under it that are not at all what Congress meant that you would be astonished if you knew about them. Why, you pass an act that is contained in two or three

paragraphs at the most, and when you come along to the regulations under the act they embrace, I suppose, a hundred pages now. There is such a mass of things in there that you would be astonished at it all. Here, for example, is an illustration of what has been attempted. It is a certain amount of expense for a packer to keep up inspection in a branch house establishment.

Meats properly inspected would be sent to the ordinary branch house and handled in a sanitary way through the branch house and distributed. Now some packer comes in and he wants to smoke a ham. Immediately, in order to send it interstate, he has to have inspection there. Suppose he doesn't want to send the ham interstate, and he doesn't want to have that small amount of inspection. All right. Now they used to have a regulation that in such a case you couldn't ship a carcass of beef interstate out of a branch house which smoked a ham unless that was inspected. They used to say this, and we couldn't ship except under such and such condition; not warranted by the law, and a sheer stretch of their authority.

Mr. PURNELL. Do you believe a bald statement of complaint merely charging that you had engaged in an unfair practice—well, to use the exact language here, a bald statement to the effect that you had "engaged in an unfair practice" would come within the requirement of section 204? Without specifying the alleged violations? It seems to me that the word "specifying" has a little broader meaning, contemplates a little more than the mere bald statement that you have engaged in an unfair practice.

Mr. CREIGH. All right, but here is the Cudahy Packing Co. I will take that company as an illustration, because I am with them. We have 10,000 employees and 100 branch houses. Now I might be very much interested in knowing the town at which the alleged offense took place, or where the employee who did it was located, or the character of the transaction, or whatever it was. I want to know all about it. And what is there unreasonable about that? Some evidence must be produced at the hearing. If my interpretation of the bill is right, that is, that I might be successfully prosecuted without ever seeing the evidence, or knowing the alleged facts at the basis of complaint, and while I think that such a possibility is within 204, I don't think you intended that.

Mr. PURNELL. I don't think it is the intent of any member of this committee to take any unfair advantage of the defendant, especially under your reasoning.

Mr. CREIGH. Certainly not, but let us patch it up in advance.

The CHAIRMAN. In your language it would be largely in the discretion of the Secretary as to what he would specify.

Mr. CREIGH. Yes; a brief statement.

The CHAIRMAN. Practically the same thing.

Mr. CREIGH. Well, mine is so much better than the other one, that let us have mine. Now then this complaint is to be served upon him; he is to be required—

to answer such complaint at a time and place designated therein, at least 30 days after the service of such complaint; and thereupon a full hearing shall be had, at which time and place the dealer shall be afforded a reasonable opportunity to be heard in person or by counsel and through witnesses, with the further right to examine all evidence in the proceedings and to cross-examine witnesses, under such regulations as the Secretary may prescribe.

Now that is all I care to say on that, and I will leave my little draft of bill with you, and ask that it be placed in the record.

The CHAIRMAN. Without objection it may be inserted.

(The bill presented by Mr. Creigh to the committee is herewith printed in full, as follows:)

Tentative draft of a bill to regulate and supervise interstate and foreign commerce in live stock, and for other purposes.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Stockyards and live stock act, 1921."

SEC. 2. That when used in this act—

The term "person" includes individuals, partnerships, corporations, and associations.

The term "live stock" means live or dead cattle, sheep, or swine.

The term "commerce" means commerce in live stock among the several States or with foreign nations, or in any Territory or possession of the United States or in the District of Columbia, or between any such Territory or possession and any State, Territory, possession or foreign nation, or between the District of Columbia and any State, Territory, possession, or foreign nation.

For the purpose of this act (but not in anywise limiting the foregoing definition) a transaction in respect to any live stock shall be considered to be in commerce if such live stock is part of that current of commerce usual in the live-stock and meat-packing industries, whereby live stock is sent from one State with the expctation that they will end their transit, after purchase, slaughter or manufacture, in another; including in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of live stock within the State and the shipment outside the State of the products resulting from such slaughter. Live stock normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

The term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens or other inclosures and their appurtenances, in which live cattle, sheep, or swine are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard in any calendar year if in the preceding calendar year there were not handled at such stockyard 150,000 or more head of cattle or 500,000 or more head of hogs.

The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

The term "stockyard services" means services or facilities furnished at a stockyard by a stockyard's company or any owner of a stockyard or a subsidiary thereof or by commission men or other market agencies in connection with the receiving, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of live stock.

The term "market agency" means any person engaged in the business of buying or selling in commerce live stock at a stockyard on a commission basis.

The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce live stock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser. This term shall include packers and butchers to the extent that they deal in commerce at such stockyards but shall not include any farmer selling live stock produced or handled on his own ranch or farm, or buying it for such uses.

The term "Secretary" means the Secretary of Agriculture.

The term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard.

SEC. 3. It shall be the duty of every stockyard owner and market agency to furnish upon reasonable request, without discrimination, reasonable services at such stockyard.

SEC. 4. All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge or practice is prohibited and declared to be unlawful.

SEC. 5. (a) Within 60 days after the Secretary has given public notice that a stockyard is within the definition of section 2, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard, services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such 60 days, such schedules must be filed before any stockyard services are furnished.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) No changes shall be made in the rates or charges so filed and published, except after 10 days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect: but the Secretary may, for good cause shown, allow changes on less than 10 days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Whenever there is filed with the Secretary any schedule stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may, either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon, the Secretary upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than 30 days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding 30 days, and if the proceeding has not been concluded and an order made at the expiration of such 30 days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) After the expiration of the 60 days referred to in subdivision (a) no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified; nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Whoever fails to comply with the provisions of this section or any regulation or order of the Secretary made thereunder, shall be liable to a penalty of not more than $500 for each such offense and not more than $250 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder, shall on conviction be fined not more than $1,000, or imprisoned not more than one year, or both.

SEC. 6. It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, and discriminatory regulation or practice of every stockyard owner, market, agency, or dealer is prohibited and declared to be unlawful.

SEC. 7. It shall be unlawful for any dealer for the purpose and with the effect of unduly restraining commerce or creating a monopoly to—

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce.

(b) Make or give in commerce any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever.

(c) Sell or otherwise transfer to or for any other dealer, or buy or otherwise receive from or for any other dealer, any live stock for the purpose or with the effect of apportioning the supply in commerce between any such dealers.

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any live stock for the purpose or with the effect of manipulating prices in commerce.

(e) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d), or (e).

SEC. 8. (a) If any stockyard owner, market agency, or dealer, violates any of the provisions of section 3, 4, 5, 6, or 7 applicable to him, or any order of the Secretary made under this title, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 12 or (2) by suit in any district court of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies.

SEC. 9. There shall be a live-stock exchange in connection with each stockyard operated under this act, which shall be publicly designated as "U. S. supervised." Every market agency or dealer doing business at such stockyard may become a member thereof in conformity with the requirements for the various classes of business as specified in the articles of association or by-laws of the said exchange.

Nothing in this act or in any regulation made hereunder shall take away or in any manner limit the right of any farmer or drover to buy or sell his live stock for his own individual requirements (but not as a regular business) at any such stockyard.

SEC. 10. A United States supervised live-stock exchange shall not be operated until its articles of association or by-laws to regulate the management and business of such exchange have been duly approved by the secretary and a written notification of such approval or consent by the secretary to the secretary of such live-stock exchange.

Such by-laws should provide for the admission as members of such live-stock exchange of all persons who desire to carry on the business of market agency or dealer on such terms and conditions as may be fixed by the by-laws and such by-laws shall require every member of the exchange to furnish sufficient satisfactory security for the proper accounting by such member of the proceeds of any sales received by him or for the performance of any purchase or sale made by or to him.

SEC. 11. Such by-laws shall further provide for the creation and conduct of a grievance committee and of a transportation committee, in addition to the usual duties incident to such committee.

(a) The grievance committee shall be especially charged with the duty of receiving, investigating, and making findings upon all complaints of any aggrieved party, which may be filed with it within 30 days of the date of the transaction complained of.

(b) The transportation committee shall be especially charged with the duty of cooperating with market agencies, dealers, live-stock shippers, stockyard owners or operators, and transportation companies, for the stabilizing and regulating of live-stock receipts and of shipments to and from said stockyard. The acts of all the members of such live-stock exchange, when done in conformity with any action of any such transportation committee by and with the authority of the Secretary or any of his subordinates, shall not be deemed to be in violation of any of the acts mentioned in section 22 hereof up until the time when notice to the contrary shall be given by the Secretary.

Said live stock exchange and its members may further cooperate with the Secretary in the securing, formulating, and publishing of information respecting receipts, prices, market conditions, and all other items which are deemed to be of interest or value to farmers and shippers to said stockyards or to other persons.

SEC. 12. (a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred

to as the "defendants") in violation of the provisions of sections 3, 4, 5, 6, or 7 (and which complaint has not been adjusted satisfactorily to said complainant within 90 days after filing his complaint with the United States Supervised Live Stock Exchange at the point at which the transaction complained of took place, provided that all such complaints shall be so filed within 30 days from the occurrence of the transaction complained of) or of an order of the Secretary made under this title, may at any time within 2 years after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of.

(b) The Secretary at the request of the live stock commissioner, Board of Agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with rhe same authority and powers as in the case of a complaint made under subdivision (a).

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this title, or concerning which any question may arise under any of the provisions of this title, or relating to the enforcement of any of the provisions of this title. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) If after hearing on a complaint the Secretary determines that the complaintant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

SEC. 13. (a) Whenever the Secretary has reason to believe that any dealer has violated or is violating any provision of this title, he shall cause a complaint in writing, together with a brief statement of the facts in support thereof, to be served upon such dealer, specifying the alleged violations, and requiring him to answer such complaint at a time and place designated therein, at least 30 days after the service of such complaint; and thereupon a full hearing shall be had, at which time and place the dealer shall be afforded a reasonable opportunity to be heard in person or by counsel and through witnesses, with the further right to examine all evidence in the proceeding and to cross-examine witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secreatry to intervene in such proceeding and appear in person or by counsel.

(b) If, after such hearing, the Secretary finds that the dealer has violated or is violating any provision of this title, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the dealer an order requiring such dealer to cease and desist from continuing such violations. The testimony taken at the hearings shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until a transcript of the record in such hearing has been filed in a circuit court of appeals of the United States, as provided in section 205, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the dealer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

SEC. 14. (a) An order made under sections 13 and 16 hereof shall be final and conclusive unless within 30 days after service the dealer appeals to the circuit court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in

such sum as the court may determine, conditioned that such dealer will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, all pleadings, all evidence offered, and the report and order. If before such transcript is filed the Secretary amends or sets aside his report or order in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) At any time after such transcript is filed the court, on application of the Secretary, may issue a temporary injunction restraining to the extent it deems proper the dealer and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

(d) The evidence offered on the hearing, duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) The court shall have power, upon the pleadings, evidence, and proceedings set forth in such transcript, to enter a decree which may affirm, modify, or set aside the order of the Secretary, but the findings of the Secretary as to the facts, if supported by the weight of evidence, shall be conclusive.

(f) If the court determines that the just and proper disposition of the case required the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and condition as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence. Such new or modified findings as to the facts, if supported by the wieght of the evidence, shall be conclusive.

(g) If the circuit court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the dealer and his officers, directors, agents, and employees from violating the provisions of such order, or such order as modified.

(h) The circuit court of appeals shall have exclusive jurisdiction to review and to set aside or modify such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 240 of the Judicial Code, if such writ is duly applied for within 60 days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the circuit court of appeals in so far as such decree operates as an injunction.

(i) For the purpose of this title the term "circuit court of appeals," in case the principal place of business of the dealer is in the District of Columbia, means the Court of Appeals of the District of Columbia.

SEC. 15. (a) Any dealer, or any officer, director, agent, or employee of a dealer who knowingly and willfully fails to obey any order of the Secretary issued under the provisions of section 13, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the circuit court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the circuit court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 205, shall on conviction be fined not less than $100 nor more than $1,000, or imprisoned for not less than three months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

(b) The Secretary shall report any violation of this section to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

SEC. 16. Whenever after full hearing upon a complaint made as provided in section 12, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative either in extension of any pending complaint or without any complaint whatever, but in substantial conformity with the procedure as specified in section 13, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter observed in such cases, or the maximum or minimum, or the maximum and minimum, to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory, to be thereafter followed; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services other than the rate of charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be; and (3) shall conform to and observe the regulation or practice so prescribed.

SEC. 17. Whenever in any investigation under the provisions of this title, or in any investigation instituted by petition of the stockyard owner or market agency or dealer concerned, which petition is hereby authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, or market agency, or any practice of any dealer, for or inconnection with the receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce or live stock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in live stock on the one hand and interstate or foreign commerce in live stock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in live stock, which is hereby forbidden and declared to be unlawful, he shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, prejudice, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners or market agencies parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

SEC. 18. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce at a stockyard, of live stock—

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the Secretary, after notice and full hearing as provided in section 13 and subject to the provisions respecting review by the circuit court of appeals may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist.

"SEC. 19. Except as otherwise provided in this act all orders of the Secretary other than orders for the payment of money shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until its further order, or for a specified period of time, according as is Interstate Commerce Commission and the immunity of witnesses in connection therewith, or to the suspending or restraining the enforcement, operation, or execution of, or the setting aside, in whole or in part, the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title, except that the Secretary shall have no authority to prescribe the form of accounts, records, and memoranda kept by such dealer unless he finds that the accounts, records, and memoranda do not fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise, and in such case only to the extent of requiring such records as will disclose these facts.

SEC. 22. Nothing contained in this act, except to the extent as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the act entitled an act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890, the act entitled an act to supplement existing laws against unlawful restraints and monopolies, and for other purposes, approved October 15, 1914, the Interstate Commerce act as amended, the act entitled an act to create a Federal Trade Commission, to define its powers and duties, and for other purposes, approved September 26, 1914, prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction, provided in section 14.

SEC. 20. If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary, other than for the payment of money, while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the District court in which such person has his principal place of business

for the enforcement of such order. Such suit in the district court shall proceed in all respects like other civil suits for damages, except the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated. If after full hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory, or otherwise, to restrain such person, his officers, agents, or representatives, from further disobedience of such order, or to enjoin upon him or them obedience to the same.

SEC. 21. For the purpose of securing effective enforcement of the provisions of this title, the provisions (including penalties) of sections 12, 14, 16a, 17, and 19, and of the first ten paragraphs of Section 20, of the interstate commerce act, as amended, and of all laws relating to the compelling of testimony before the act entitled "An act to promote export trade, and for other purposes," approved April 10, 1918, or sections 73 to 77, inclusive, of the act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894, as amended by the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved February 12, 1913," or

(b) To alter, modify, or repeal such acts or any parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this act becomes effective, or

(d) To relieve any person from obedience to any consent or other decree heretofore entered against him by a court of competent jurisdiction.

SEC. 23. If any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 24. This act shall take effect 90 days after its passage.

Mr. LIGHTFOOT. Of course, Mr. Creigh is presenting his ideas of what should be presented in these bills, and I think that I can illustrate just in a word the point that he is making, He referred to a complaint being filed against Wilson & Co. at one time. They specified in that complaint a transaction that we were supposed to answer. We prepared to answer that transaction, but we had no knowledge that there would be or were any other charges in connection with that transaction, so when we came to Washington for our hearing we found that when they found that the evidence was weak on this point, and they could not sustain the charge, that they sent all of their investigators out all over the country and raked it with a fine-tooth comb to get other similar transactions, if they could, in order to keep from falling down on that one, and when we came into the hearings we were confronted with things that we had never heard about, we were confronted with things of which we had no knowledge, and then we had to ask for an extension of time in order that we might prepare to meet those charges. So if we had a brief statement of what the charges were in advance, or had the privilege of asking for them, and if they had given them to us so that we would have had notice of the other charges, so that we could have prepared for the charges, we would have been in a position to go on without having all this difficulty. And the whole upshot of it was that after we got all of the charges and had the hearing the Federal Trade Commission dismissed the suit in its entirety, in every single one of the additional charges they brought.

Now, I think that that is what Mr. Creigh had in mind, that if you are alleged to have been guilty of a violation, and they file a claim against you, you should be entitled to know what the charges against you were.

Mr. PURNELL. If the department has sufficient facts upon which to base the complaint, there ought to be no hesitancy to publish them to the world.

Mr. LIGHTFOOT. Yes; and not wait until we got into the hearing before the commission, with all of the witnesses, and then spring something upon us that we didn't know anything about.

Mr. PURNELL. If they did not have evidence strong enough to substantiate the charge they should not file a complaint.

Mr. LIGHTFOOT. No; of course, if they haven't evidence enough, they shouldn't file a complaint. I am not criticizing that; they thought they probably had sufficient evidence. But we didn't have any knowledge of it until we were actually in the trial, and then we had to go out and hunt it up again and investigate the facts. That is the thing that I am criticizing, the fact that we were not furnished with this information until we actually came there for trial. Now, if we had the privilege of asking, "What is your charge? Give us a brief statement of what the complaint is about," then we can prepare ourselves, and, as Mr. Creigh suggested, it might not be necessary to have a hearing at all. But then there is another thing. It might be that the complaint was about something that we had no knowledge of at all, that we had never heard of, and if we did not have a statement of the facts we would not be in a position to investigate and know what it was about. It might have been in connection with a transaction by somebody a thousand miles away; somebody might have done something that we didn't know anything at all about, but the Federal Trade Commission might have heard about it, and the first thing we knew about it was when this complaint was made. Now, we want to know what it is about, and let us get a brief statement of the evidence, and if there is more than one charge in the complaint we should be advised of it, so we would be prepared at the trial.

Mr. VOIGT. Why wouldn't this meet your objection; suppose you add on at the end of line 15, page 5, the words, "with a reasonable degree of particularity"?

Mr. CREIGH. That covers the point. My language was, "together with a brief statement of facts." All we want is the idea of having some definiteness.

Mr. KINCHELOE. I understand your contention is that you not only want the statement of facts but you would like to be put into possession of the facts upon which the complaint is based.

Mr. CREIGH. That is at the time of the trial but not as a part of the complaint. If it is at the time of the trial, I certainly want to, but not as a part of the complaint.

Mr. KINCHELOE. No.

Mr. CREIGH. Now, in that same connection, Mr. Voigt, don't you think this section "b" should be changed? Look at that.

"If, after such hearing, the Secretary finds that the packer has violated or is violating"—what? "Any provision of this title."

Why, if it should state that he is violating the act as charged in the complaint, something like that, then we would really have a chance.

The committee has been very courteous, but there is one other general line of information that I would like to put in. My chief fear about the bill arose entirely out of the indefiniteness of the language as to what is a fair practice or what is not, or what is a discrimination or what is not. In the Federal Trade Commission act the words are: "Unfair methods of competition." Something more than a year ago some association made a tabulation of some fifty-odd things, I be-

lieve—well, the number was 61 at that time—that had been held to be unfair methods of competition already. Now, I think any one of you would be quite astonished to see the width of jurisdiction that has been assumed. For instance, here is a discrimination in prices between purchasers or localities.

Now, this idea of discriminating in prices is quite a thing. Have we got to make the same price to all our trade, or buy live stock at the same price at all points? Or what will unfair trade practices mean? I say there is every species of regulation within that. I will show you another one under the unfair methods of competition: Even enticing the employees of competitors. Well, now, that is a pretty big proposition, as to whether if Cudahy wants to hire somebody's man and pay him an increased salary, it is an unfair method of competition to try to get him. I don't know. It is all, however, within section 5 of the Federal Trade Commission act now, so I want to leave with you, just as a matter of interest for the committee, and as an illustration of, I think, the undreamed of stretching of the words "unfair methods of competition," this little tabulation beginning on page 24 of the pamphlet "Notes on S. 3944. Federal Live Stock Commission Act," which I will leave with the committee to be placed in the record.

The CHAIRMAN. Without objection it may be placed in the record.

(Appendix A to notes on S. 3944, Federal Live Stock Commission Act, presented by Mr. Creigh for the record, is here printed in full, as follows:)

APPENDIX A.

UNFAIR COMPETITION AS CONSIDERED BY THE FEDERAL TRADE COMMISSION.

We submit herewith a list, compiled by the American Specialty Manufacturers, of certain practices of which the commission has heretofore complained upon the ground of unfair competition:

1. Agreements to give dealers special commissions or rebates, provided they deal in the seller's goods exclusively.
2. Giving cumulative discounts or rebates to dealers whereby they receive at the end of a fixed period certain rebates or discounts based upon the aggregate purchases during that period.
3. Selling to such dealers only who will refrain or agree to refrain from dealing in competitor's goods.
4. Effecting contracts for advertising, subject to cancellation if competing goods are advertised in the same medium.
5. Guaranteeing customers against decline in price of goods purchased, and not resold by such customers at the time of any subsequent decline in the prevailing market price of such goods.
6. Effecting long-term contracts with customers.
7. Effecting exclusive contracts to manufacture or sell, e. g., contracts to manufacture exclusively for respondent, not to sell to competitors, not to deal in any other similar products except with the permission of respondent, not to sell nonmembers of a dealers' organization.
8. Agreements with dealers not to sell competing goods of a similar color or substitutes for or imitations of respondent's goods.
9. Failure to perform numerous contracts to sell because of an advance in the market price of the product sold and the surreptitious marketing of such product through another concern at the higher prices.
10. Effecting resale price maintenance by contract, agreement or refusal to sell.
11. Purchasing one's own products from dealers selling such products at less than the fixed and standard resale prices.
12. Inducing and causing contracts affecting competitors to be broken, rescinded or delayed.
13. Claiming, exercising, and maintaining a monopoly in the sale of products.
14. Procuring others to make bogus and spurious requests for estimates from competitors.

15. Inducing, through actual or threatened withdrawal of patronage, the discontinuance of the furnishing of supplies to a competitor.
16. Effecting commercial bribery through the corrupt giving by a seller to the employee or agent of a customer of any money or other thing of value or entertainment with the purpose of influencing the recipient in relation to the business of his employer or principal.
17. Issuing lottery premium coupons.
18. Willfully damaging or tampering with competitor's property.
19. Discriminating in prices between purchasers or localities.
20. Espionage, as through employing secret agents to spy upon competitors' business, surreptitiously entering the factory of a competitor to procure drawings of machinery, procuring trade secrets, bribing railroad employees to obtain information as to competitors' shipments, trailing delivery and sales agents of competitors, requesting employees and dealers to spy upon other dealers.
21. Enticing employees of competitors.
22. Instituting unwarranted suits against competitors.
23. Interfering with a competitor's business by purchasing from dealers the goods of such competitor and submitting one's own, and by following salesmen of a competitor to hinder and embarrass them in the performance of their duties.
24. Threatening to sue a competitor for the purpose of intimidation.
25. Threatening to force competitors out of business unless they refrain from selling in certain territories.
26. Intimidating, threatening, boycotting, molesting, or obstructing of competitors generally.
27. Dividing of territory and limiting of selling area by competitors.
28. Threatening to cut off dealers' supplies unless purchased from respondent.
29. Refusing to sell unless dealers will purchase other supplies, unless dealers will agree not to sell the products of a competitor, unless dealers will agree to sell at standard resale prices fixed by the seller.
30. Selling or offering to sell below cost or at less than a fair profit.
31. Selling at less than cost upon the condition that the customer will simultaneously purchase other merchandise upon which a profit is made or selling certain products at a loss and recouping on others.
32. Selling food unfit for human consumption.
33. Simulating the trade name, trade-mark, cartons, slogans, advertising matter or appearance of the product of a competitor.
34. Concealing interest in other concerns.
35. Maintenance of bogus independence and cutting of prices through such bogus independence.
36. Agreements whereby equipment necessary to handling certain products is loaned on condition it shall be used exclusively in connection with respondent's products.
37. Selling machines under license agreements whereby purchasers may not use therewith the supplies of competitors, and may not use the seller's supplies either on competitor's machine or with the supplies of competitors.
38. Entering into an agreement, understanding, or pool by competitors to maintain prices or to allot business.
39. Locality price cutting.
40. Threatening to sell and selling direct to consumers in order to compel retailers to handle the seller's goods exclusively.
41. Purchasing entire output of raw material.
42. Infringement on patents, trade-marks, and copyrights and prosecutions for alleged infringement.
43. Making up cost sheets in reckless disregard of true costs.
44. Impairment of competitive power of other concerns through stock control.
45. Price fixing through contracts, associations, and combinations.
46. Effecting a restraint of trade through contract, combination, or conspiracy.
47. Organizing of trust to increase prices.
48. Agreements between competitors to limit output.
49. False and misleading advertisement.
50. Misbranding.
51. Misrepresentations and false statements, either about one's own or a competitor's merchandise or business.
52. Defamation, libel, slander, disparagement of competitor's goods or business.
53. Passing off goods as of other manufacture.
54. Misuse of letter from commission and disobedience of order by commission.

55. Agreements between manufacturers, members of an association, and laborers whereby the latter do not work for nonmembers or for manufacturers not maintaining standard prices.
56. Appointment by a wholesaler's association of committees to confer with manufacturers to adopt certain sales methods.
57. Compelling members of an association against their will to maintain standard prices by fines and withdrawals of labor.
58. Publishing of blacklists by an association.
59. Inducing organizations to influence their members not to sell to competitors.
60. Inducing and compelling manufacturers, through an association, not to recognize certain dealers as legitimate jobbers, entitled to buy at jobbers' prices.
61. Combination of buyers to force down purchases by refusal to purchase.

Mr. KINCHELOE. Under that the packers could not change lawyers that were already in the employ of another?

Mr. CREIGH. Well, I don't know, sir, as to whether that would be held to be an unfair method of competition.

Mr. ASWELL. Suppose Wilson offered you a larger salary, would that be unfair?

Mr. CREIGH. Well, I don't know whether the Federal Trade Commission would say that Wilson was unfair in doing that, or whether it would say that I was unfair if I had accepted it.

The CHAIRMAN. Is that all, Mr. Creigh?

Mr. CREIGH. That is all.

The CHAIRMAN. Are there any other questions?

Mr. VOIGT. I want to ask Mr. Creigh a few questions about this so-called "Black Book."

Mr. CREIGH. The "Black Book," yes, sir.

Mr. VOIGT. I started to ask you about that last night, and we agreed to postpone that matter until you made your statement.

Mr. CREIGH. Yes.

Mr. VOIGT. And I should like to take that up now.

Mr. MCLAUGHLIN of Nebraka. After you get through, Mr. Voigt, I have one question that I want to ask Mr. Creigh in order to clear up a matter.

Mr. VOIGT. Have you the "Black Book" before you?

Mr. CREIGH. What volume is that in?

Mr. VOIGT. Part II, page 213.

Mr. CREIGH. Yes, I have it.

Mr. VOIGT. This is bearing on the question of whether there is any agreement among the packers for a division of purchases or sales. It appears from this page, that the so-called "Black Book" was a memorandum in the handwriting of G. F. Sulzberger, at that time a member of Sulzberger & Sons Co. It also appears that in this memorandum he used fictitious names, but there is a key to these fictitious names given on page 213. And I am just going to read something to you out of the "Black Book" and substitute the right name for the fictitious name.

Here is a memorandum made by Mr. Sulzberger of a meeting with J. O. Armour at Armour's office, on January 29, 1913, at 3.15 p. m. I am quoting from this memorandum. [Reading:]

Armour seemed very discouraged with the general situation and prospects. I explained this was due, a good deal, to his own foolish tactics in New York; that the situation there had been completely demoralized by his actions and that this was a very sensitive situation. He admitted that he thought they had a made a mistake there, but that the rest of the situation did not make him anxious to change his attitude. I explained to him that he was injuring us more than any one else there, as we had larger proportionate interests. He claimed that this was not so, that Swift had larger

interests, but I explained to him that proportionately this was not the case. He said he had no intent to work against us, and said that he would arrange now to do the following: Reduce N. Y. 10 per cent this week. Ten per cent next week.

Now, do you claim that that language does not show a combination among the packers?

Mr. CREIGH. Why, of course, I know nothing about these circumstances here, and referring to the "black book," you will find that there is absolutely no mention of Cudahy in it at any time. But I will go ahead and answer the question.

Mr. VOIGT. Well, let us just keep it upon these two packers, then: Sulzberger, who was later succeeded by Wilson, and Mr. Armour.

Mr. CREIGH. All right. Now, the whole theory of the five or seven volumes of the Federal Trade Commission report, as I read them—possibly from the Cudahy standpoint—is that for thirty-odd years there has been a combination between the Big Five continuously operating. Is that right? That is the charge?

Mr. VOIGT. Well, that is one of the theories.

Mr. CREIGH. Well now, that report of the Federal Trade Commission——

Mr. VOIGT (interposing). Just let me say this, that I think if this committee was satisfied that there was a combination existing on January 29, 1913, they might conclude from that that it had existed at least some time before that, and possibly for some time after that.

Mr. CREIGH. But my point is, Mr. Voigt, that if there is this fixed percentage combination existing, as charged, on January 29, 1913, under which Sulzberger and Armour had had an agreed percentage in distribution of all the cattle and everything else, how could any such a situation as is noted here exist? Apparently they are talking of making an agreement down here.

Mr. VOIGT. Now let us assume that there wasn't any agreement among the five at all.

Mr. CREIGH. Yes.

Mr. VOIGT. Then will you please explain whether this particular language would indicate that there was an agreement between these two gentlemen?

Mr. CREIGH. Between Armour and Sulzberger?

Mr. VOIGT. Between Armour and Sulzberger.

Mr. CREIGH. Well now, if there was, it depends then on this language as to what it meant:

He said he had no intent to work against us and said he would arrange now to do the following: Reduce New York 10 per cent this week; 10 per cent next week.

Have you any idea what that means practically in the business? I don't.

Mr. VOIGT. Well, it doesn't make much difference what it means. It had some relation to the business of these two packers. They had a private meeting and they made some agreement respecting their business whereby they both agreed upon an unlawful transaction. Now, it makes no difference whether Mr. Armour agreed to reduce New York 10 per cent in purchases or in sales—that would be a violation of the Sherman law.

Mr. CREIGH. Why, that certainly does not follow from the language here, if I may put it back to you that strong.

Mr. VOIGT. You mean it doesn't follow that it referred to——

Mr. CREIGH. No; that it would violate the Sherman law. I don't see any violation of the Sherman law in that language. Of course, I don't know what the language means.

Mr. VOIGT. Well now, isn't it fair to assume from this language: "He said he had no intent to work against us"?

Mr. CREIGH. Well, what does that mean?

Mr. VOIGT. That meant that he had no intent to work to antagonize his business interests.

Mr. CREIGH. Why, I would read it the other way—that apparently somebody had been shipping too much into the New York market, and probably trying to put somebody else out of business. But I don't think that is fair competition myself.

Mr. VOIGT. You don't think it means that? If one man in business says to another: "I have no intention to work against you," doesn't that mean, "I have no intention to do you any harm"?

Mr. CREIGH. Well, let us put it the other way: Suppose he did have the intention to do some harm. That is a violation of law, isn't it?

Mr. VOIGT. Why, it might be and it might not be.

Mr. CREIGH. Why, it certainly is a violation of the Clayton Act to send stuff into a man's general territory and sell it so low that you put him out of business.

Mr. VOIGT. Now, look here: "He said he had no intent to work against us, and said that he would arrange now to do the following: Reduce N. Y. 10 per cent this week. Ten per cent next week."

Mr. CREIGH. Yes.

Mr. VOIGT. Well, now, doesn't that show that these two men representing the two packing concerns, were making some underhanded transaction for the purpose of influencing business in their line in New York?

Mr. CREIGH. Well, of course when you say "underhanded" I don't quite get the suspicion of their being underhanded here.

Mr. VOIGT. Well, let us use the word "secret."

Mr. CREIGH. Let me put it the other way, if you please.

Mr. VOIGT. Let us use the word "secret."

Mr. CREIGH. Well, what is the anathema of "secret"? I may be selling a man to-day on the New York market, and Swift may be selling somebody else. I don't know their business, therefore it is secret. Now, the charge in the Federal Trade Commission report is that far from being secret we know too much about the business of the other fellow.

Mr. VOIGT. Don't you think that this language refers to the business of these two concerns?

Mr. CREIGH. Why, I should think from this—although I say I don't know a thing about it—I should think from this that Armour had been shipping so much to the New York market there that he had demoralized the market, and was hurting Sulzberger by having demoralized the market. He also hurt himself. There was a glut in the market, in other words, there, which is the very thing explained by Gen. Lightfoot yesterday as being within the contemplation of the Supreme Court of the United States in the packers' case as being lawful.

Mr. VOIGT. Well, let us get at it this way: Then does it mean that Sulzberger felt that the competition of Armour was too strong for

him in New York, and upon his making complaint to Armour, Mr. Armour agreed to reduce his own shipments from 10 to 20 per cent?

Mr. CREIGH. Well, of course, we are both supposing on what it means. Now, as to whether the competition of Armour was unfair to Sulzberger, I should imagine that Sulzberger was saying to Armour, "Why, you are shipping so much in here that you are making a glut in the market, and you are killing us off, even yourself." It says in the print here: "His own foolish tactics in New York, that the situation there had been completely demoralized by his actions, and that this was a very sensitive situation." It says, that he "seemed very discouraged with the general situation."

Mr. VOIGT. Well, then, nevertheless, this does indicate that Mr. Armour, at the solicitation of Mr. Sulzberger, agreed to reduce shipments to New York, in your judgment?

Mr. CREIGH. Well, again I am guessing. It says, "reduce New York 10 per cent." I don't know whether that would be price or shipment, myself, but I should imagine it is shipment.

Mr. VOIGT. Now let us take the next paragraph:

He gave me the following figures on which he commented the showing on hogs; I explained to him that nothing had been taken into consideration for "0," and that this should have been. This seemed to relieve his mind. I explained to him what I proposed, personally, doing, without going into any detail, nor did he show any interest to raise any inquiry as to any of the detail.

Now, does that mean to you that these men had been talking over purchases or sales of the various packers?

Mr. CREIGH. Well, let us see if we can find out what "the following figures" are. There is a table on the next page.

Mr. VOIGT. The table referred to, found on the next page, shows the total live-stock purchases for four weeks ending January 25, 1913, by the Big Five. Evidently those were the figures discussed, is that right?

Mr. CREIGH. Well, I should say that those are—I would imagine that those are the figures discussed; yes, sir.

Mr. VOIGT. Yes. Does that strike you as though there was some combination between those men?

Mr. CREIGH. Why, not in the slightest. You could go into our office in Chicago—of course this is back to 1913—you could go into our office and we can assemble those figures every week, and we do. We would be chumps if we didn't.

Mr. VOIGT. I understand that you assemble those figures?

Mr. CREIGH. Why, certainly.

Mr. VOIGT. But is it customary for packers to call on each other and discuss these figures?

Mr. CREIGH. Well, now, all of that depends upon what you mean by "customary," as a matter of from day to day, why no, certainly not.

Mr. VOIGT. But they do—it is nothing unusual then for them to get together and discuss these figures of purchases?

Mr. CREIGH. Well, now, when you say "unusual to get together," I should say it was quite unusual that they should get together. But apparently Mr. Sulzberger here, or Mr. Armour, has some special comment on a certain situation, undisclosed here, as between themselves. Certainly there weren't five packers in on that conference.

Mr. VOIGT. No; I don't think so. It does disclose, does it not, that Sulzberger and Armour had a confidential visit in regard to the figures showing the purchases by the Big Five packers?

Mr. CREIGH. Well, I should say that one or the other evidently had a complaint to make that some fellow was hurting him in some way, but there certainly is nothing to indicate any agreement in all this.

I am very much interested in seeing the Cudahy's percentages are so far from the agreed percentage here.

Mr. PURNELL. You mean the alleged agreed percentages.

Mr. CREIGH. Why, of course, that is what I mean.

Mr. VOIGT. Do you attach any significance to the fact that while these figures that they were discussing were for 1913, that immediately opposite these 1913 figures were given percentage figures for 1910?

Mr. CREIGH. Well, it is perfectly obvious that somebody was checking up either the decline or the increase of his business.

Mr. VOIGT. Now, will you refer to page 216 of the "Black Book"? You will notice there a heading: "My talk with Klee at his office, April 21, 1914."

According to the key, "Klee" means Morris. Why do you suppose that the man who kept this memorandum used these fictitious names?

Mr. CREIGH. Oh, well, why—why do I suppose? I haven't any supposition about it.

Mr. VOIGT. You haven't any supposition?

Mr. CREIGH. Why, no.

Mr. VOIGT. You can not think of any reason why he used fictitious names?

Mr. CREIGH. I could think of a dozen.

Mr. VOIGT. Well, what is the best one that you can think of?

Mr. CREIGH. Oh, well, now, let us talk something with reference to the legislation, if you please.

Mr. VOIGT. Well, I think this has a bearing on the inquiry. I am not asking you this question out of idle curiosity. Well, I will ask you this question: Was it for the purpose of concealing the actual people that were discussed in this "Black Book"?

Mr. CREIGH. Why, I haven't the slightest idea, sir.

Mr. VOIGT. You have no idea why he used fictitious names?

Mr. CREIGH. It would seem to me that here is a record that gets out some way—I don't know a thing about it. My chief interest in it is to find that Cudahy is not mentioned in there at all. I think that is good evidence that there isn't a conspiracy of five packers.

Mr. LIGHTFOOT. Mr. Creigh, on that point I think it might be interesting to state that while all this matter here was a long time ago, and long before I came into the industry, from the best information that I can get about it, Mr. Sulzberger, who was a very young man and not in very robust health, had the peculiarity, the idosyncrasy, you might say, of putting down in some kind of form or memorandum any conversation which he had with any person about any matter of business of any kind. And if you went into his office and had a conference with him about anything of importance affecting his business, he would after you left get this memorandum book and write out his recollections or his ideas of the conference. I don't know whether he would do it immediately or not, but at some time he would. He was like a person who keeps a diary of everything that they do every day.

Mr. VOIGT. Yes: this is a sort of a diary.

Mr. LIGHTFOOT. Yes. But I want to make this explanation. That may have been one of those peculiarities and may explain why he should do it. I don't suppose that he ever thought that that book would be used for the purpose attempted here.

Mr. VOIGT. No.

Mr. LIGHTFOOT. And if he did not there would not be any reason for concealing under key names, ciphers, or anything of that kind, these parties, their names. But I will call your attention to this—I have never read it over but one time, and that was immediately after the Federal Trade Commission report was out. I don't recall all the things in it, but my recollection is that there is not a single, solitary statement anywhere in it that deals with any future division of purchases of any kind on an agreed basis. All of those things relate to what had been done. "What did you do?" "What have you done?" We will tell you that any time. If you want to know how many cattle we bought in any market in the country, we would tell you or any one that.

Mr. VOIGT. Well, now, I don't think you are making a fair statement there. I am confining myself to what is contained in this book, and I think the committee can read the English language and draw its own conclusions as to just what this language means.

Mr. LIGHTFOOT. Well, I am not trying to be unfair, I just wanted to make that explanation in relation to that. And furthermore, I will say this, that my construction of it, if you care anything for it, would be the very thing that I was talking about, that Mr. Creigh pointed out, that in New York, if the situation was that Armour was getting too much stuff in there, and was producing a glut, and a waste, so that he, Sulzberger, couldn't make a dollar on anything that he was slaughtering, and that Armour was losing money on what he was shipping in there, that by reducing his shipments into that market 10 per cent, which would more exactly meet the demands there, that it would be a legal proposition, and I would not hesitate a minute to advise any client that they could do that to-day under the injunction case approved by the Supreme Court of the United States.

And that is what the producers all over the country are doing as far as they can, and that is what is contemplated in the Volstead-Capper bill that has been offered here. I think it is an economic proposition.

I think there are a lot of statements in there, of course, that would justify the very conclusions that you draw. But when it is understood and explained, I don't believe they should be so construed. Mr. Armour has never been asked for an explanation of that. Now, Mr. Armour is living. The Federal Trade Commission never filed a complaint or attempted to find out what those things meant. They could have done so. But they published them and of course left it open for everybody to draw their own conclusion.

Mr. VOIGT. Well, I think that this "Black Book," so far as I have read it into the record, is self-explanatory. I think any man with reasonable sense can draw his own conclusions.

Now, Mr. Creigh, will you turn to page 221 of the "Black Book." You will find there, a short ways from the top, this language:

Question of eastern killing of sheep and lambs, whether or not this be included, was discussed but not decided. Klee claimed export cattle 1910 should be included. Sanford opposed. I stated that this was more than the mere purchasing of stock.

As I have said before, "Klee," stands for Morris, and "Sanford," for Armour. Now he says here that the question of killing sheep and lambs was discussed, but not decided. Does that convey to your mind that these men were making some sort of an agreement on the killing of sheep and lambs in the East?

Mr. CREIGH. Well, of course, again I notice that following down the statement there is no mention of Cudahy there at all.

Mr. VOIGT. No; I don't claim now that Cudahy is involved in the question I am now asking you, Mr. Creigh

Mr. CREIGH. Well, then you agree with me, Mr. Voigt, that so far from this being evidence that the Big Five had a conspiracy, that it is directly to the contrary.

Mr. VOIGT. No; I don't agree with you on that at all. I am just asking you what, in your opinion, was the transaction between these two men that was referred to in this question?

Mr. CREIGH. Very well. Good. Now, just for a pure guess, I think that everything in that memorandum refers to export business, either from the Argentine or Australia or somewhere to, probably, England.

Mr. VOIGT. Well, assuming that that is true, does it show to you that they were discussing some sort of an agreement among themselves with reference to the sheep and lamb business?

Mr. CREIGH. Well, there is some sheep and lamb business that is obviously being discussed, but the rest of the memorandum is entirely outside of the United States, it seems to me. I would infer that that refers to some export trade.

Mr. VOIGT. I understand it refers to export trade, but I am asking you, Mr. Creigh——

Mr. CREIGH (interposing). I mean by "export" either their houses in Argentine or Australia, or their shipments to Great Britain.

Mr. VOIGT. Well, I understand that all the packers deny that they are in any combination with reference to export trade.

Mr. CREIGH. Well, this is what I mean. They may talk in this country with reference to what the Argentine plants are going to do, and how they are going to ship stuff from Argentina to Great Britain. Now, that is no combination in the United States for any export trade.

Mr. VOIGT. Well, now, then, they in this memorandum here mention specific figures, and it says that the question of killing sheep and lambs was discussed but not decided. Now, I am asking you whether that does not reasonably mean that they were trying to get together on some figures with regard to the export, if you please, of sheep?

Mr. CREIGH. Well, I think it might well refer to the export, but I don't see, for the guess, perhaps, where the export is being made from. Here is one line—and it is just two lines below where you read—in which there are some figures here that exclude 17,000 exported from Canada, and there is talk of the Argentine and Sansinena.

Mr. VOIGT. Now, I want to read to you further from the same page, Mr. Creigh:

Sanford shows 11.79, including exports, as against 11.73, excluding exports for Sand. Klee claimed account been formerly exported by others having included therefore cattle exported 1910 should also be included, Sanford claimed this incorrect.

Does that show to you at all that these men were getting together on the matter of parceling out purchases or sales of live stock?

Mr. CREIGH. Well, I should say the inference from that is that they are talking Argentine business.

Mr. VOIGT. Well, now, assuming that it does refer to Argentine business, or any other business, I am asking you: Does that fairly bear the inference that these men were talking about some agreement among themselves with reference to the purchase or sale of live stock?

Mr. CREIGH. In Argentina, I should say that is the inference. I think that would be entirely legal.

Mr. VOIGT. I think that is all I want to ask.

The CHAIRMAN. The time is up, but do you want to ask him a question, Mr. McLaughlin?

Mr. MCLAUGHLIN of Nebraska. I think this can be discussed all in a minute. Now, this is in the hearing before the Interstate and Foreign Commerce Committee of the House, on H. R. 13324, January 31 to February 14, 1919, part 5. Of course this same thing could be found in a number of these other hearings, but I just happened to run across it here. It occurred to me, in connection with the discussion of the Borland resolution and the propaganda that was set into motion to defeat it, and the statement has been made by several here that the only object of that propaganda or the only reason directed against the resolution was because the resolution itself sets forth specific charges. Now, here is a statement made to Louis Swift on the 3d of April, I suppose 1913, signed by R. C. McManus, J. M. Chaplin, and Arthur D. White, on page 1421 of this hearing. Their statement is lengthy, the statement they have made to Mr. Swift relative to this resolution, but I call your attention to this paragraph and ask you to make an explanation of it. [Reading:]

> We believe the situation to be serious and recommend that due consideration be immediately given to it and that everything be done in every direction to head off the present movement and to relieve the tension. We believe that, as it stands to-day, nothing could stop criminal prosecutions and that the situation is dangerous where men like Burke, who have been in the business all their lives, regard trivial and irrelevant circumstances as conclusively proving unlawful operations.

Now, just what do you understand by that statement in this letter to Mr. Swift, signed by these three men?

Mr. CREIGH. Who are the three men, if you please?

Mr. MCLAUGHLIN of Nebraska. R. C. McManus, J. M. Chaplin, and Arthur D. White. They say in that statement:

> We believe that, as it stands to-day, nothing could stop criminal prosecutions.

Mr. CREIGH. Well, now, of course you understand that those three men signing that letter are employees of Swift & Co.?

Mr. MCLAUGHLIN of Nebraska. Yes, sir.

Mr. CREIGH. And they were obviously in Washington at that time. I would like to ask one other thing. There are a long series of initials, I think, on that letter, aren't there; that is, on the copy, toward the end there?

Mr. MCLAUGHLIN of Nebraska. Yes, sir.

Mr. CREIGH. I think you will find some initials, "T. C.," are down there.

Mr. MCLAUGHLIN of Nebraska. Well, here are "J. R."

Mr. CREIGH. The very last one, as I remember it.

Mr. McLAUGHLIN of Nebraska. I don't see any.

Mr. CREIGH. At the end, the last one.

Mr. McLAUGHLIN of Nebraska. I don't find the initials "T. C." here.

Mr. CREIGH. Well, at one time in one of the Federal Trade Commission reports they had "T. C." on there as being Thomas Creigh, obviously, who received a copy of that letter, and I took it up to find about it, and it developed that the "T. C." had been written on by, I think, some Trade Commission examiner in order to make his story that I had had a copy of that letter. I never had had it.

Now, as far as Cudahy's situation with respect to the Borland resolution is concerned, if you will permit me, I would simply like to put into the record the testimony that I gave before the House Committee on the Judiciary in 1916. That will show you perfectly what our contention was with respect to the Borland resolution.

It was just, I think, as Mr. Veeder outlined it this morning, that as far as the committee in Congress practically by resolution finding that we are guilty of criminal offenses, we did not think that was a fair proposition. Nor would it be to put it up to the Federal Trade Commission in the form of that resolution to investigate and find out whether it was not so.

Mr. McLAUGHLIN of Nebraska. Well, this statement—"As it stands to-day nothing could head off criminal prosecution"—does that mean as conditions are generally, or as our business is organized, or as our practice has been? What does that mean?

Mr. CREIGH. My impression has been this——

Mr. VEEDER. Suppose I answer that, Mr. Creigh.

Mr. CREIGH. Suppose I make a guess at it, please.

Mr. VEEDER. All right.

Mr. CREIGH. Here is a tremendous effort being made at that time by all sorts of propagandist interests to have the Federal Trade Commission or somebody investigate the packers at that time. My guess would be that of course it is perfectly easy to indict a packer at any time; that is quite common. It is good politics, regardless of evidence or anything else. Somebody may have feared that that was part of the propaganda to try to secure an indictment. There is certainly nothing in it that indicates that there might have been a conviction.

Mr. VEEDER. That last sentence there that you read explains it. Will you read it again? The very last sentence of the paragraph you read.

Mr. McLAUGHLIN of Nebraska (reading):

> We believe that as it stands to-day nothing could stop criminal prosecutions and that the situation is dangerous when men like Burke, who have been in the business all their lives, regard trivial and irrelevant circumstances as conclusively proving unlawful operations.

Mr. VEEDER. The last sentence explains it. Now, there was such an agitation down here at that time that Mr. McManus and Mr. Chaplin were afraid that without anything more than trivial circumstances, that the matter would be submitted to the grand jury and that we would probably be indicted and have to go through a trial. Now, perhaps you don't know what a trial means for the packers. A trial for the packers means three months. The trial in 1911 lasted three months. The trial in 1905 lasted about the same length of

time. And in 1905 the judge was brought to Chicago from out of the city—a strange judge was brought there by the Government. And it is a pretty serious thing to be put on trial for three months, with a jury that is likely to be prejudiced by the publicity that is given to the case, and the charges that are made, whether there is only trivial evidence or not. Now, that is what Mr. McManus and Mr. White and Mr. Chaplin meant when they wrote that letter, that there was so much agitation down here, that there was so much talk and charging that the packers were violating the law, that they would be indicted even if there was nothing more than trivial charges made. And I say that is what happened to us in 1911. At that trial the jury brought in a verdict of not guilty after three months, and it didn't take the jury more than a very few minutes to bring in the verdict.

The CHAIRMAN. What page of the record was that letter, Mr. McLaughlin, that you just read from?

Mr. MCLAUGHLIN of Nebraska. Page 1421.

The CHAIRMAN. Have you anything further, Mr. Creigh?

Mr. CREIGH. No; that is all, except I would like to put into the record my testimony on the Borland resolution hearing.

The CHAIRMAN. Without objection, it may go into the record.

(Mr. Creigh's statement at the hearing before the Committee on the Judiciary in June, 1916, is herewith printed in full, as follows:)

STATEMENT OF MR. THOMAS CREIGH.

Mr. CREIGH. I am general attorney for the Cudahy Packing Co., and that, gentlemen, means not so much an attorney practicing in the courts there as one sitting right on the inside of the business constantly, as a stockholder, and one of the coworkers out there in a large organization, trying to know something about the many details of a very large business. The question has been asked several times here this morning—and very pertinently—as to why it is that the packers, or certain of the packers, would object to this investigation. Now, from the standpoint of our people, I might say that this is the thought that is rather bothering us. From its constructive side, and the economic side, as has been emphasized here, we think that working in cooperation with the cattle raisers, and with certain departments of the Government, there are very great constructive possibilities about perhaps not so much the changing of prices materially, the cheapening of this product or that product, but the stabilizing at least of an industry which will permit the middleman in between to share in the general advantage of being able to operate more efficiently. Now, I think our position is, as Mr. Meeker has stated, that with the Department of Agriculture knowing the physical operation of the plants, with the great field for possible improvement—that of the improvement of the health of the live stock of the country, the intensifying of their production, saving both the packer and the live-stock owner from losses by disease—that there is a tremendous field there in which we can cooperate. Similarly——

Mr. GARD (interposing). Have you ever suggested to any governmental department such cooperation?

Mr. CREIGH. I think that has been done almost constantly.

Mr. GARD. Has your concern ever done that?

Mr. CREIGH. Yes, indeed; and it is on record that we desire constantly to try and cooperate. I should say that has constantly been the case for six months, and several times before, at different periods, I can recall it being taken up.

Mr. GARD. Since this investigation has been going on?

Mr. CREIGH. That is since this investigation; yes. I have done it since the investigation, and also prior to the investigation many times.

Mr. BORLAND. You did not appear at their hearing in Chicago that the Bureau of Markets had there?

Mr. CREIGH. No; I did not appear there.

Mr. BORLAND. Your company did not appear?

Mr. CREIGH. No; that is true.

Mr. BORLAND. They went there for the purpose of inviting this cooperation, but you did not appear?

Mr. CREIGH. That is true as well.

Mr. BORLAND. But since these hearings have been started, these offers have taken place?

Mr. CREIGH. Yes; and prior to that several offers had been made, and I think one of the mistakes that the packers generally made was in not attending that hearing.

Mr. BORLAND. I think so myself.

Mr. CREIGH. But my company, even though it was willing to put up the facts at that hearing, could not undertake the defense of an entire industry, so we were not present at the hearing. On the constructive side of the question of the meat-inspection division there are vast reforms and tremendous economies that can be worked out by the better cooperation between the packers and the Bureau of Animal Industry, and that without in the slightest degree impairing the service. One of the most tremendous difficulties and greatest handicaps that the packers are up against is the fact that under the meat-inspection law, it being a Federal law, it acts, of course, only in interstate commerce, and in every one of the large cities of the country we are up against what we feel is unfair competition, which is absolutely demoralizing in certain fields where the local and uninspected slaughterer has the advantage of the market, which tremendously affects our business. Now, when it comes to interstate shipments of diseased live stock, there is one very large field in there where the National Government can go a great deal further than it has gone, and vastly to the benefit of the consumers of the United States.

Now, at the same time, while we are in line for every possible endeavor to build up the constructive side and to help in every way we can, particularly because we need it—now I am speaking from the Cudahy standpoint—the beef business in our industry is the least remunerative part of the industry. If we could get out of the beef business we would get out of it. We have got our investments which tie us down. The underlying difficulty as to why it is not profitable is the question which Mr. Meeker and other persons faniliar with the business have emphasized.

Mr. CARLIN. Has not the money which you have made and which you have put into these investments which you spoke of come out of the beef business?

Mr. CREIGH. No; not at all. The money in our business is money that has been put into it. The money that the packers make is very largely what they make out of their hogs, I should say.

Mr. CARLIN. What is your capital?

Mr. CREIGH. $14,000,000 at the present time.

Mr. CARLIN. What is your surplus?

Mr. CREIGH. Oh, $3,500,000; something like that.

Mr. CARLIN. How much of that has been put in from earnings?

Mr. CREIGH. From earnings?

Mr. CARLIN. Yes.

Mr. CREIGH. Well, I do not know. I can not think back over the books fast enough, but I will say, out of $17,000,000—$10,000,000 probably out of the earnings of 25 years.

Mr. CARLIN. So your capital has practically been, half of it, put in out of earnings?

Mr. CREIGH. At the same time we have been in business for 25 years, and the stockholders who have not taken their earnings out of the business have left it in to go ahead and expand and try to do business.

Mr. CARLIN. How much have your stockholders taken out at various times in 25 years?

Mr. CREIGH. I have not been a stockholder all of that time, but I have been in the last five years, and we have not gotten 4 per cent out of it per annum.

Mr. CARLIN. That is, 4 per cent on the $17,000,000?

Mr. CREIGH. No; that is 4 per cent on the $14,000,000.

Mr. CARLIN. How much would that, at 4 per cent, amount to in 25 years? Can you make the mental calculation?

Mr. CREIGH. A hundred per cent, if you compound it.

Mr. CARLIN. There never has been a time when you were adding this capital to your business that you have not paid your stockholders a dividend, has there?

Mr. CREIGH. Out of the last five years we have paid but one year or two at the most.

Mr. CARLIN. A dividend?

Mr. CREIGH. On the common stock. There is $2,000,000 preferred and $12,000,000 common. Out of the last five years we have paid two common dividends. I know that, and I appreciate it out of my own pocket. We have a statement here of the earnings. Two of the years we were down to several hundred thousand dollars for net earnings, and in several of them we went up to a million and a quarter. Between the beef end and the provision end we make our money out of the hogs and the provisions. You only make it in one way. You are dealing in a cured product, which

you can hold, and make your money out of it, and out of what you may make, if you have the market conditions sized up right, you pay your losses on your beef, and that is the way the business is run very largely.

Mr. GARD. Do the packers make their money out of cured meats rather than fresh meats?

Mr. CREIGH. Surely. The underlying difficulty is that when you have fresh product you are at the mercy of the fellow who is going to buy it from you. You can not forecast the market. A Jewish holiday or a fish Friday or a Fourth of July or a wet week or an extra hot one, that drives the people from the cities, will affect the market faster than they can possibly take it off from the beef end out in the yards. You buy cattle this week for next week's market.

If anybody can foretell this week how many people will be in the hotels in the city of New York or at Atlantic City next week, if he has a hunch different from the other people, he probably can make money out of his cattle purchases and his beef sales, but if the weather goes against him, instead of making a dollar or a dollar and a quarter a head, which nobody might figure on, he will lose $10 or $15 a head, and that is where the whole difficulty is in the fresh-meat business. The most curious anomaly in the 25 years' history of the United States is that the packers have always been arraigned by public opinion on the most undesirable and unprofitable end of their business.

Mr. CARLIN. If the beef business is undesirable and unprofitable, why do you not close out that end of the business?

Mr. CREIGH. Because they have their packing houses already constructed and their branch houses already built. It is just a gamble as to whether or not you had better shut up your business or try to protect your investment by going ahead. As I have read in connection with the hearings in November, very much emphasis was laid on the increase in sales per annum during the last 5 or 10 years by each of the packers. Those increased sales were due primarily to two things—the increasing cost of live stock, which necessitated increasing the selling price, therefore, of the products from it, and, secondly, the fact that with the shortage of beef in this country as compared to the old days when it was cheap, every packer has to-day to get into these outside lines of business, particularly those of, say, cheese, butter, and poultry. Why do they get into them? They have already got their fixed investment in refrigerating plants and branch houses, as I may call them, in the great cities of the country. Their fresh-meat production is not sufficient to keep them busy. It is costly to keep them going, so in order to make a profit out of them they all try to get into these side lines to carry their overhead expense through these outside products.

Now, as I wanted to emphasize this morning, our company is not at all opposed to any constructive investigation that will work practically with us to help try to solve some of these questions, but when a resolution comes along, gentlemen, and picks out my company by name, where we have had a record of at least 10 years of not having been under an indictment or investigation, and when the lower House of Congress practically passes a resolution, in form saying, "Here is Cudahy & Co., who are guilty of criminal violations of the law; take them over before the Trade Commission and find out whether they are or not," I do not think that there is any doubt in the minds of any of you gentlemen but what, when that happens, our desire to cooperate is very largely gone. All along through the legislation for the Trade Commission we at Chicago, I think, have all been peculiarly friendly to the idea, believing that in it were great constructive possibilities, but I do not think that any friend of the Trade Commission is going, this early in their career, to set them out again onto this thing, where the business interests of the country generally have feared they might be subjected to a hounding by the Trade Commission under the operation of the law. I think we have gone too far for that, gentlemen. These are big practical questions that we can work out. Now, my reluctance to have this go to the Trade Commission at this time is not because I do not believe that they have constructive powers, but because of the flat statements in this resolution with reference to the destructive or prosecuting powers, and the Trade Commission, as we all know, has relatively slender funds at the present time, and has a vast amount of accumulated work on hand now. The best thing for the consumer and for the packer and for the live-stock shipper is to let us go to the Department of Agriculture, which is in touch with our business, and there is where we can make some progress which will be beneficial to all concerned.

Mr. CARLIN. But they have no power there.

Mr. CREIGH. Nobody, when he cooperates, needs any compulsion, Mr. Chairman. The compulsion about it, the threat of examining witnesses, is in line with the destructive possibilities here, and if you take that out of your resolution, my people will have nothing against it. Here we are with a fair record for at least 10 years, believing that we have kept the law, and here is the lower House of Congress writing our name into this resolution, and practically charging us with violations of the law.

Mr. CARLIN. What objection could you have to giving them the power to summon witnesses? If you are going to tell the story anyway, why object to telling it under oath?

Mr. CREIGH. Well, I have no hesitancy against telling the story or against telling it under oath; but certainly we all agree that this resolution has written into it very much more with regard to violations of the antitrust laws and the criminal possibilities than the power to summon witnesses.

Mr. FISHER. Have you seen a copy of the suggested amendment which I sent to Mr. Veeder?

Mr. CREIGH. He passed that to me, and in one paragraph you practically charge us with violating the antitrust laws, and in the next paragraph you say you do not know whether we are violating them or not.

Mr. FISHER. You will agree that the greater portion of that resolution does not have to do with these things to which you object, will you not?

Mr. CREIGH. The thing to which I object is passing any resolution that has the Cudahy Packing Co. specifically charged with a violation of the law by name—a violation of the antitrust laws—and has that charge sent to the Federal Trade Commission. In view of that aspect it does not conduce to cooperation that has been spoken of, and you and I, Mr. Fisher, know that that is the only way you can get any beneficial results out of this proposition.

Mr. FISHER. When the time comes I will have my reply for you. I do not want to interrupt you.

Mr. CARLIN. There is no intention on the part of these gentlemen asking for this resolution to interfere with the progress of this industry, but there is an effort to prevent, if such a thing is being done, cooperation on the part of you gentlemen to control the prices of the animal to the consumer and to the feeder.

Mr. CREIGH. Yes.

Mr. CARLIN. Now, that is the gist of this proposition. Of course, beyond that there is a broader question as to how these things will affect the consumer.

Mr. CREIGH. Yes.

Mr. CARLIN. But I do not think it is any impeachment of your integrity if we put the power somewhere to compel your attendance when they want you and to compel you to testify when they desire to have you testify.

Mr. CREIGH. Certainly, you gentlemen of this committee here, if I should draft a resolution in terms citing you, by name, as possible violators of the law, would hardly feel kindly toward the idea that you had to go to work with me in solving some problem which you had before you. As regards my people, I venture the assertion that there is not a single syllable in this entire record that is before you by any witness who knows anything about the packing business or its organization that comes anywhere near charging us with any violation of the law.

Mr. CARLIN. Witnesses have testified that the price that you pay is about the same as the other fellow pays for the animal at Chicago.

Mr. CREIGH. Precisely.

Mr. CARLIN. And that there is no competition between you and him.

Mr. CREIGH. When he says there is no competition, Mr. Chairman, that does not follow simply because there is a similarity in price. My company is one of the smallest in size, yet the difference of one-eighth of a cent a pound means the making or a loss of $1,000,000.

Mr. FISHER. You mean the difference in the spread between the cost and what you get?

Mr. CREIGH. No, sir; I mean if I sell my product—assuming a constant price throughout the year, which, of course, is not the fact—if I could get one-eighth of a cent more on every sale I make throughout the year, we would get $1,000,000 more.

Mr. FISHER. Assuming that your cost remained the same?

Mr. CREIGH. Of course, that is true. If our people in our agencies throughout the country and around the world are not keen enough salesmen to get that one-eighth of a cent we do not get anything. If our salesmen drop that down one-eighth further we lose that $1,000,000.

Mr. CARLIN. You say this resolution carries the implication that you are violating the law?

Mr. CREIGH. Absolutely. In view of the famous Garfield report, I say that. The lower House of Congress has passed a resolution with this phraseology in it directing them practically to find that there are violations of the law. I say that a subordinate bureau of the Government is apt to be pretty strongly of the notion, when they operate under your directions, to go out and work, instead of on the constructive side, to see if they can not find something on somebody.

Mr. CARLIN. Suppose they do that, and suppose it is not there; they can not find it, can they?

Mr. CREIGH. In our smaller company, we have some 10,000 employees. We operate in most of the large cities, especially those of the Northeast, and we operate up and down the line, and we have all sorts of angles from which we can be approached. If this investigation is to be undertaken on the basis of having individual investigators go up and down the line inquiring of our employees here and there, we will be kept so busy that there will not be any chance to cooperate with anybody.

Mr. TAGGART. If the wrong exists, that ought to be done.

Mr. CREIGH. I only wish you gentlemen had been with me on the firing line, so to speak, of the packers, and could know practically what an investigation means with a lot of subordinate people turned loose to go out and get something.

Mr. CARLIN. How would you change the phraseology of this resolution to meet your view of constructive investigation?

Mr. CREIGH. If you eliminate the name of every packer, and investigate the industry on the basis of trying to study how the thing may be stabilized, so as to prevent wide ranges or fluctuations in price, I should say that you would be suggesting something constructive, in which every packer and consumer and the Department of Agriculture would cooperate. I know of no one in my house who objects to the furnishing of a syllable of information, when it is clearly for the constructive side, to try to work the problem out.

Mr. CARLIN. The Federal Trade Commission now has the power?

Mr. CREIGH. Yes.

Mr. CARLIN. It has the power now to require the very thing that this resolution requires.

Mr. CREIGH. I think that is true. That is one of my arguments as to why putting it into this resolution is really unnecessary, and why it tips the scales against us.

Mr. CARLIN. The Trade Commission likewise has the power, of its own motion?

Mr. CREIGH. Precisely.

Mr. CARLIN. Independent of any complaint?

Mr. CREIGH. Precisely.

Mr. CARLIN. But do you not think it might speed the matter a little to a quicker conclusion if we express a desire for them to investigate this particular business?

Mr. CREIGH. The point I most keenly object to is the mention of my company by name, coupled with a possible violation of the antitrust law.

Mr. CARLIN. I do not think we are interested in any particular company; we are interested in everybody.

Mr. CREIGH. That is true.

Mr. CARLIN. I do not think the mention of your name here——

Mr. CREIGH (interposing). Well, out of the entire United States, gentlemen, there are a hundred other packers, some of whom do not perhaps do the volume of business that we do—$120,000,000 a year—but I will guarantee that they will do half of it.

Mr. CARLIN. Where is that? In the United States you say?

Mr. CREIGH. Yes; lots of them that will do half of our business. Why, pick out four or five which have been successful and stayed in the business?

Mr. CARLIN. Who are these others who do a business half the size of yours?

Mr. CREIGH. I am not quite close enough to have the facts of other people's business handy, but I know in the export trade there are a number of interior Iowa packers who do a very large business, and the Indianapolis packers—Kingan and the Indianapolis Abattoir. When you come down to details you catch me a little bit minus of them, because I do not come in contact with the trade, but I know there are a very large number of slaughterers and packers who do a business of many millions of dollars a year.

Mr. GARD. What other branches has the Cudahy Co. except the slaughtering of meat animals?

Mr. CREIGH. Our business would break about this way: That out of the $120,000,000 a year we probably will sell $20,000,000 of that—of such outlying products not derived from meat animals; as, for instance, we will say, butter, eggs, cheese, and poultry and different products derived from cottonseed oil, that do not come out of the meat animals; then, a line of soap, of which very little comes from meat animals; and in connection with that, cleanser made out of sand and pumice, and then some pharmaceutical products, which, in order to justify a salesman being carried on the pay roll to sell pepsin made in the packing house, they will pick up a line of pharmaceutical articles to help pay the expense of that salesman. There is nothing in which we are interested except such as has some connection with the packing-house business.

Mr. GARD. You have $100,000,000 under the meat animal business and $20,000,000 under the other business?

Mr. CREIGH. That is the way I would break it, roughly, in my own mind. Now, I want to emphasize again with reference to the general charges, that sometimes the points of difficulty seem to be in the Chicago Union Stock Yards and with the Chicago packers, in which, although we have a general office there, we have no packing house. Our houses lie out on the Missouri River and west of that. Now, we do not have, with one exception, any stockyards interest. We do own our refrigerator cars, because we have to. For the last two years we have been trying to get the Interstate Commerce Commission to make some finding in a case under submission that will protect us for some decent return on the investment in those cars.

I think I have taken up even more than the 10 minutes which I promised, and in conclusion I want to say that I noticed at one point in the testimony of one of the previous hearings the statement of some witness with reference to a so-called split sale between our people at Kansas City, and, I think it was, the Morris people, and I would like to offer as an exhibit an affidavit of our chief cattle buyer—I will turn over a copy of it to Mr. Fisher [handing paper to Mr. Fisher] in which he states that he has never made any such split purchase as that.

Mr. GARD. Where was that split sale?

Mr. CREIGH. At Kansas City. He says that he does recall that at one time in the yards at the date of the instance that was cited, where some shipper had cattle in the hands of one commission company, and they were in two pens; that he made a bid of $7.75 per hundredweight for all the cattle, and finally all that he did purchase was one pen containing 43 cattle, and that due to the fact that he bought the small quantity he paid $7.85 for them.

(The affidavit above mentioned appears in full below, as follows:)

"AFFIDAVIT OF T. J. HOGAN RELATIVE TO THE PURCHASE OF CERTAIN CATTLE BY HIM FOR THE CUDAHY PACKING CO. AT KANSAS CITY ON JANUARY 10, 1916.

"STATE OF KANSAS,

"*County of Wyandotte, ss:*

"T. J. Hogan, of lawful age, being duly sworn, on his oath, deposes and says:

"That he resides at 3300 Coleman Road, in Kansas City, Jackson County, Mo., and is employed by the Cudahy Packing Co. as its head cattle buyer at Kansas City and has been so employed for nine years last past.

"That in the daily course of his business affiant, whose office is in the Exchange Building at the stockyards in Kansas City, Mo., goes out over the yards each morning for the purpose of viewing the cattle therein contained, with the object of buying certain numbers of cattle of certain classes to meet his daily requirements, and that, pursuant to his general course of his employment, on Monday, the 10th day of January, A. D. 1916, while inspecting and viewing the cattle at the stockyards in Kansas City he found two adjoining pens of cattle in the section of the stockyards alotted to the Drumm Commission Co., in each of which pens there were 43 cattle, E. Houx being the salesman in charge of said cattle for the Drumm Commission Co., and affiant talked with said Houx in regard to the purchase of said cattle.

"These cattle were what is known as fat corn-fed westerns and were not of the class of cattle that affiant desired to purchase a very large number of on that day, but affiant, to the best of his recollection, did make a bid of $7.75 per hundredweight for the cattle and would have been willing to have purchased the entire two pens of cattle could they have been bought at that price, but the said salesman refused to sell on that basis. Finally, in the course of the dealing, however, affiant did purchase one pen containing 43 of the cattle, weighing a total of 63,340 pounds, at and for the price of $7.85 per hundredweight and affiant did not purchase or offer to purchase or have any further dealings concerning the cattle in the other pen above mentioned.

"Affiant further says that recently this matter was called to his attention and that in order to determine what disposition was made of the 43 cattle in the adjoining pen above referred to by the Drumm Commission Co., he inspected and investigated the records in the office of the Kansas City Stock Yards Co. and also the office of the Drumm Commission Co., and from said records found that on the 10th of January, 1916, Morris & Co. purchased the other pen of 43 cattle, which weighed 63,190 pounds, at and for the price of $7.85 per hundredweight.

"Affiant further says that in the purchase of said 43 cattle, which he purchased for Cudahy Packing Co., there was no collusion nor connivance between affiant and the buyer for Morris & Co.; that he did not have any conversation with the buyer for Morris & Co., nor any person connected with said company, regarding the purchase or sale of said cattle, and that the only dealings he had with any person concerning the 43 cattle which he purchased was had with E. Houx above referred to, who is now and

has been for some time last past employed by the Drumm Commission Co. as head salesman, and who has, so far as affiant has any knowledge, no connection of any kind whatsoever with Morris & Co.

"T. J. HOGAN.

"Subscribed in my presence and sworn to before me this 13th day of May, 1916.

"[SEAL.] "WINNIE CASE,
"*Notary Public.*

"My commission expires June 25, 1917."

Mr. MORGAN. Are there any other witnesses?

The CHAIRMAN. Are there any further questions to be asked of Mr. Creigh? If not, we will hear you, Mr. Marsh.

STATEMENT OF MR. BENJAMIN C. MARSH, REPRESENTING THE FARMERS' NATIONAL COUNCIL AND THE PEOPLE'S RECONSTRUCTION LEAGUE, BLISS BUILDING, WASHINGTON, D. C.—Resumed.

Mr. MARSH. I want to make a few statements, Mr. Chairman, in regard to the Williams bill which was introduced since I appeared before you Tuedsay, and also to answer some of the criticisms of the Haugen bill—the chairman's bill—by some of the people who have appeared to-day.

I would like, Mr. Chairman, to address myself first to what is known as the Williams bill, introduced on May 3, and I regret that the introducer is not present, but I mentioned to him as he was leaving the room a short while ago that I wanted to discuss this bill and some of the features of it, and he told me that the bill was presented to him by the American Farm Bureau Federation, and so Mr. Gray Silver, the Washington representative of the American Farm Bureau, told me.

May I go through this bill section by section?

The CHAIRMAN. Proceed in your own way, Mr. Marsh.

Mr. MARSH. On the first page of the Williams bill, H. R. 5692, you will find that there is a brief change in that, but a change of very great importance. That bill entirely omits the definition of "live-stock products" of the Haugen bill and substitutes therefor at the top of page 2 the following statement:

The term "meat food products" means all edible products and by-products of the slaughtering and meat-packing industry.

Now, the Haugen bill, page 1, line 11 and following, includes "live-stock products," and so defines them. It says:

The term "live-stock products" means all products and by-products of the slaughtering and meat-packing industry derived in whole or in part from live stock.

Now, as I understand the difference it would be this, that under the Williams bill—or perhaps I had better more accurately refer to it as the Farm Bureau Federation bill—some of the products handled by the packers, or which they have handled, would be excluded from the provision and regulation provided for in the Haugen bill.

Now, the Federal Trade Commission, in its summary of the meat-packing industry, on page 14, says—and I will quote it briefly, if I may, Mr. Chairman:

Fertilizers: The fertilizer industry lies at the base of American food production. The packers, controlling the disposal of more than two-thirds of the offal produced in the packing industry, have become the most important factors in the manufacture of animal fertilizer ingredients and have strongly entered the field of production of mineral ingredients. In mixed fertilizers they produce 19 per cent of the total.

I would comment that those fertilizers in that form are not edible products.

Now, I go on to what the Trade Commission has to say as to hides, leather, and wool:

Hides, leather, and wool: In addition to the far-reaching ownership and control in the various branches of the food industry outlined above, the Big Five also occupy an important position with reference to the clothing of our civil and military population through potential control of the hide and leather markets of the United States and of a considerable proportion of the total wool production.

There is no question of their dominant position with reference to hides and leather. The Big Five not only handle more than three-fourths of the hides and skins produced by interstate slaughterers, but directly, through their subsidiaries, or through leases and contracts, tan a large part of the leather produced in the United States. The big packers occupy an even more important and profitable position in the hide and leather industry than these statements indicate, because of the fact that their hides receive a higher grading than those of independent packers and butchers, whose hides are arbitrarily classed as "country hides," and that they control a large share of hide imports.

Finally, the packers' storage facilities and strong financial position make it possible for them to manipulate the markets and dispose of their product without regard to supply and demand. It is admitted in correspondence of the big packers that during the past year, when leather was in enormous demand, certain of the Big Five hoarded hides in such immense quantities for the purpose of inflating the already unreasonable prices that (to quote their own correspondence): "We are forced to pack them in our cellars and outside in the open, but have reached the point now where we have no place to go with any more."

Now, Mr. Chairman, it seems very strange that any farmer organization would suggest eliminating these nonedible products and making such a vital change in a bill as this, unless it be upon the assumption that we are going to be governed by a court decree.

Well, if we are, in this packers' industry, to be governed by court decree, there is no use for any legislation, as far as I can see. Therefore, if we have legislation it is certainly very inadvisable to exclude any of the products which the packers handle, and of course there are a great many others which they handle. I don't want to go into a great long list of them. The Federal Trade Commission has submitted a long list. But the fertilizers and the hides, to say nothing about the other lines of packers in which they seek to conceal their high profits, are certainly things which the Government ought to control.

Mr. ASWELL. Under the Haugen bill, do you understand that that would include shoes and woolen clothes?

Mr. MARSH. I understand that under the Haugen bill it would include all of those; yes. It means all products and by-products of the meat-packing industry in which the packers are engaged. The words are:

The term "live-stock products" means all products and by-products of the slaughtering and meat-packing industry derived in whole or in part from live stock.

Mr. ASWELL. That includes the shoe industry?

Mr. MARSH. If they go into the shoe industry, if they engage in the shoe industry, it would include that.

Mr. ASWELL. Do you think it would be confined to the packers?

Mr. MARSH. I think it would under this definition, assuming, of course, that they have a certain per cent of interest in shoe manufacturing, as provided in the Haugen bill; they would be included in that.

Mr. ASWELL. The control, then, would follow the by-product as long as the packer has anything to do with it?

Mr. MARSH. The control would follow the by-product as long as the packer has control of it; that is what I understand to be the meaning of it.

Mr. ASWELL. I wanted to be certain of the language. I don't see that the language indicates that.

Mr. MARSH. That is how I construe it.

Mr. LIGHTFOOT. Mr. Marsh, one moment. Just for your information, I want to say that I think your construction of the language there is wrong.

Mr. MARSH. My construction of the language of which bill, if you please?

Mr. LIGHTFOOT. Of the amendment you are speaking of.

Mr. MARSH. You mean of the Williams bill?

Mr. LIGHTFOOT. Yes. Mr. Wilson had a similar suggestion that he made this morning, and I am familiar with it, and just for your information I should desire to call your attention to this fact: Our construction of that is this, that the definition of the term "live stock" means live or dead animals, or cattle, sheep, swine, or goats. Now, that language will cover every packer. That gives the Secretary of Agriculture supervision over all of the activities of the packer, regardless of his by-products. None of the activities of the packer, in handling any of his product, whether it is the meat, or whether it is the by-product, or whether it is fertilizer—if he was making fertilizer—would be excluded from the terms of that act.

But any person, outside of a packer, who would be making fertilizer, under the language as it is now in the Haugen bill, would be brought in; it would bring him in if he was using any by-product from the slaughter of animals in his business. It would make a packer out of the American Woolen Mills, because they are using raw wool in their spinning operations. So that it was our idea that the bill ought not to extend or be permitted to extend to or include every kind of a manufacturing operation in this country which employs in its business any by-product derived from the slaughter of animals.

But I don't think that that would exclude at all the operations of the packers themselves in the manufacture and handling of any of their by-products, because the bill applies to any man who "slaughters live stock." That would get the packer in all of his operations.

Now then, another reason is this, which I think would be proper to explain: There are a great many people in this country who manufacture food products, say sausage and things of that kind, who do not slaughter an animal. Well, such a person would not be a packer and would not come under the terms of this bill, under the definition of "live stock," because he is not engaged in slaughtering them at all. But he is engaged in manufacturing them.

Now subdivision (*b*), with that definition there, "of manufacturing or preparing meats or meat food products for sale or shipment," would bring in all those in that class. So it would bring a packer in who slaughters live stock, and it would apply to the manufacture of edible food products, if they don't slaughter them.

Now, there are quite a number of packers who do a pretty big business who do not slaughter at all. They have that done for them or they buy the meat for the manufacture of food products. And I think that if you are under the impression that that bill would exclude the jurisdiction of the Secretary of Agriculture over the by-products

or the manufacture of by-products or handling of them by a packer, you are mistaken. It is not our idea, and we don't want it if it does.

Mr. MARSH. Well, may I ask you, Mr. Lightfoot, this question: Do I understand that you collaborated with the Farm Bureau Federation in preparing this bill?

Mr. LIGHTFOOT. No, sir; I did not collaborate with anybody. Mr. Wilson stated this morning that he had a discussion with Mr. Howard in Chicago. There were several conferences of farmers out there, and they have been for some time trying to find out what objection the packers had to what they considered reasonably constructive bill, along the line as the Haugen bill, and I think Mr. Wilson has very frankly indicated—as he did here this morning—to him some of the objections. But I find that in reading the Williams bill that the Farm Bureau have not in their amendments included all of the objections to the bill that Mr. Wilson had suggested. They, I think, have adopted some of the ideas, in their efforts, if they had anything to do with the preparation of the bill.

Mr. MARSH. Well, may I ask, as Gen. Lightfoot has given information on this question, Is it your thought that more than the business known as meat packing, or included in the Haugen bill, should be brought under the control of the Secretary of Agriculture, and it is for that reason that you specify the words "edible products and by-products" in defining "meat-food products" and do not accept the other definitions?

Mr. LIGHTFOOT. I think that in the general discussions had out in Chicago on that thing that the farmers said that the word "edible" there was intended to eliminate such a thing as leather or a shoe manufacturer or a tanner. Tanneries are not under this bill, except to the extent that a packer might own a tannery.

Now, if a packer does own a tannery and he is manufacturing his leather out of his hides, why the Secretary of Agriculture can investigate all the lines of business that he is in. The ownership of this business, and every fact is connection with the parent company, and every subsidiary—whatever by-product he is handling. But if you don't put some such statement as that in it—and I think the Senate over there the other day in considering the matter has limited that to food products, has used the words "to prepare for human food," or something of that kind—in order to have some definite line, why the language as it was would make a packer out of a man who was engaged in making hair brushes or automobile cushions, or spinning yarn, and it would reach out and bring in every industry in this country, which is not contemplated by those who desire legislation to supervise the industry under this particular legislation. They want to supervise the packers and all of their operations and whatever they are doing. Now, I think, from my construction that the definition of "live stock" as it now appears would include the packers and all their operations. Now, the other definition of "meat food products" changes it a little to eliminate these outside fellows that are not packers, and which are not connected with the packing industry in any sense.

Mr. TEN EYCK. Do you know, Mr. Lightfoot, whether this additional paragraph was suggested by Mr. Wilson or the farmers themselves, the farmers or the representative?

Mr. LIGHTFOOT. Well, I don't know about that. I know that Mr. Wilson in his discussions out there very frankly discussed all the objections that he had to this bill.

Mr. TEN EYCK. But you don't know whether that came direct from the farmers, from Wilson, or from the packers? It would be immaterial in a way. I was just trying to find out which one had the thought of putting it in, that was all.

Mr. LIGHTFOOT. Well, I will tell you, the objection was made to the Gronna bill on the same line by a lot of people, by a lot of industries, and they wired in and sent in messages and things of that kind, and just who originated the thought of eliminating that, whether it originated from the farmers or the packers, I don't know, but it is immaterial to the packer, because we are under it. It doesn't help us whatever. But I think there was some idea that the other people ought not to be brought in in the same bill; that is all.

Mr. MARSH. I am not convinced by your statement, but it is a statement which I appreciate. I don't think it meets the situation, and I think when the full discussion was up in the Senate it was adopted practically with the definition in the Haugen bill.

Then on page 4 of the Williams bill, section 203 reads:

That it shall be unlawful for any packer with the effect of unduly restraining commerce or of creating a monopoly to—

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce;

and then (b), (c), (d), (e), (f), and (g) follow.

Now it seemed to us very unwise to attempt to put into legislation any seeming indorsement of restraining commerce and attempting to say that anything which does not unduly restrain commerce is reasonable, and it appears to us that that is the purport and effect and intention of this clause. I don't know why it should be used.

The Haugen bill is very distinct. It says: "It shall be unlawful for any packer to" engage in or indulge in any of the destructive practices enumerated.

It seems to me the Williams bill amendment cannot meet the situation.

On page 9 of the Williams bill, there is a rather interesting omismion. The Haugen bill, page 9, paragraph (h), line 4, reads: "The issue of such writ shall not operate as a stay of the decree of the circuit court of appeals, in so far as such decree operates as an injunction," while that is stricken out in the Williams bill. I can not imagine what would be the legitimate purpose of that. Perhaps the gentleman who drafted the bill could explain it. It would appear as though it would prevent any effective action on the part of the regulating power, or immediate action, if you omit that.

Mr. SINCLAIR. Where is that in the Haugen bill?

Mr. MARSH. In both the Haugen and Williams bills it is on page 9. I will read the Williams bill and then show the difference. The Williams bill reads:

The circuit court of appeals shall have exclusive jurisdiction to review, and to set aside or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 240 of the Judicial Code, if such writ is duly applied for within 60 days after entry of the decree.

There stops the Williams bill, while the Haugen bill continues:

The issue of such writ shall not operate as a stay of the decree of the circuit court of appeals, in so far as such decree operates as an injunction.

In other words, while there may be an appeal, as we understand, under the Haugen bill the issue of the writ of the circuit court of appeals is not going to be interfered with pending an appeal. That is the construction we put on it, and we do not know why there should be any interference with the injunction going into force as soon as it is issued.

On page 10 of the Williams bill, line 18, the bill reads:

Whenever the Secretary finds that the accounts, records, and memoranda of any packer do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any packer who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both.

Now, the Haugen bill is very different, a little change of words to which I will call attention, in line 21, on page 10. It starts at line 1, just as the Williams bill, but it says, line 21—

And thereafter any packer who keeps any other or different accounts.

Now, the purport of the Haugen bill, as we understand it, is to prevent the packers from keeping their own private records and keeping themselves advised of those things which the public can not know, so as to form this collusion in purchasing, etc., which was established by the Federal Trade Commission; while the Williams bill does not prohibit them from keeping any such private books, records, or memoranda. It merely says that they must not fail to keep those prescribed by the Secretary of Agriculture.

In other words, the Haugen bill confines their accounting to a uniform accounting system and does not let them keep any other or a double set of books or accounts as in the case of the "Black Book" and other revelations of the Federal Trade Commission. They are all to be made public.

Now, that is of very great importance. As you will remember, Mr. Chairman and gentlemen of the committee, in my statement on Tuesday we urged that the chairman's bill should be amended from the beginning so that as soon as this bill goes into effect the Secretary of Agriculture, or whatever authority is in charge of the regulation, shall require the packers to institute a uniform system of accounting and forbid their using any other record or memorandum. Let us have the thing on the level and above board, so we will know what we are doing. I am going, before I get through, to go into a little more detail on what they have done, and why they have done it, and to meet some of the objections they are making. This bears on it.

On page 17 of the Williams bill there is a new section I would imagine that this would be one of the recemmendations of the packers. New section (i) reads:

Any stockyard owner, market agency, or other dealer may appeal from any order, rule, regulation, or action of the Secretary, in which case the procedure shall be as provided in sections 204, 205, and 206, title 2 of this act, and no penalty shall accrue in such case until said order, rule, regulation, or action shall become final and is thereafter violated.

Now, Mr. Chairman, it is a mysterious thing that an organization purporting to represent any American farmers should try to give the packers freedom to enable them to escape the penalty for a violation of any order, rule, regulation, or action of the Secretary, or for any malfeasance, until they thereafter violate this order.

Now, if they have violated an order, they should be punished. I do not see why they should be whitewashed. That section (i) is not in your bill.

Mr. CREIGH. Do you think the Haugen bill would be constitutional without the court of appeals section?

Mr. MARSH. I do not know whether it is constitutional or not. But to say that a misdemeanor, or a crime, or criminal shall not be punished for what he has done until he does it again——

Mr. CREIGH (interposing). The first time reading this, I should imagine that is not the correct impression of the language.

Mr. MARSH. Let me read this. What does this mean? I am not a lawyer, you know.

No penalty shall accrue in such case until said order, rule, regulation, or action shall become final and is thereafter violated.

Now, suppose you say no person convicted of murder shall be penalized until he commits murder again, would that be constitutional? I don't know; I hope not.

Mr. SILVER. I had not intended to say anything until I was on the stand, at which time I will take up this bill and discuss it; but at that particular place, it was my expectation and intention to ask that that line be stricken out. It was not intended to be there. But I do not want to enter this discussion until my turn comes on the stand.

Mr. MARSH. I would like to ask how that came to be in there?

Mr. KINCHELOE. Let me ask what the American Farm Bureau Federation means to you; do you think there is a conspiracy between them and the packers?

Mr. SILVER. I have certain information which I will present later. I ask you if one of reasonable integrity——

Mr. KINCHELOE (interposing). I am asking you: Do you think that the American Farm Bureau Federation is in collusion with the packers?

Mr. MARSH. I understand they have been in conference with the packers, whether they are in collusion or not. Mr. Howard is getting $15,000 a year, and Mr. Silver is getting $12,000 a year, and Mr. Howard stated before a House committee that he was "unsophisticated."

Mr. KINCHELOE. How much are they paying you?

Mr. MARSH. $3,600 a year for what I am doing.

Mr. KINCHELOE. I know of the farm bureaus in my State, and they are made up of the very highest class and most intelligent men in their communities.

Mr. TEN EYCK. Do you know personally of the membership of the American Farm Bureau Federation?

Mr. MARSH. It is made up of a good many farmers and some bankers. That came out in the Committee on Banking and Currency in the Senate some time ago. Mr. Silver stated that it was organized in New York.

Mr. TEN EYCK. Do you mean New York State or New York City?

Mr. MARSH. I don't know; nor whether you refer to the Broome County organization or not. Mr. Silver's reference was to 1919, because he stated the next year they met in Chicago and organized. Mr. Silver stated he would put in the record a list of those present at the New York meeting, but it doesn't appear.

Mr. TEN EYCK. The Broome County organization was in 1914.

Mr. MARSH. Mr. Silver can give you that information as to who was there when he is on the stand.

Mr. KINCHELOE. Do we understand there is a rivalry or bad feeling betwen your organization and the members of the American Farm Bureau Federation?

Mr. MARSH. Not the least; but we certainly would not be doing our duty to the National Farmers' Council and to the People's Reconstruction League, whom we represent, if we did not point out these things in this bill.

Mr. KINCHELOE. You have a right to point them out, we invite that; but the reason I interrupted you, you seemed to think that the American Farm Bureau Federation is in collusion with the packers.

Mr. TEN EYCK. I want to make a statement here. I helped to form the Farm Bureau of Albany County. I was secretary and treasurer of it for a long time, and know what their desires are. I also helped to form the New York Farm Bureau, and was a delegate to Chicago at the convention which formed the American Farm Bureau Federation. I was there the day Mr. Howard was elected. I know of no better bunch of farmers anywhere than those who met first at Albany, and then in New York State, and then at Chicago.

Mr. MARSH. I will quite agree with you that the farmer members of the American Farm Bureau Federation want to do the right thing, and you will agree with me that any of their real representatives would certainly not have written a provision like that.

Mr. TEN EYCK. As Mr. Silver said, it was a mistake, and he intended to have it cut out. I am not representing the farmers or anybody else particularly here, but I want a bill that will represent the people of the entire country. I do feel that the members of the American Farm Bureau Federation, with their officers, are honest and trustworthy and are attempting to obtain the best for the people they represent.

Mr. MARSH. They did make a very serious error in judgment when the indorsed the Cummins-Esch law, which has cost the farmers a billion dollars and put the country on the blink from one end of the country to the other.

Mr. KINCHELOE. That is why I asked you if you are talking of the men who make up these farm federations throughout the country. I happen to know many of the men who are in the farm federations in the State of Kentucky and I know the conditions they are working under and I know they are men of the highest class and standing, and if you are talking about that sort of organization I, as a menber of Congress, represent them.

Mr. MARSH. I am talking about these officers.

Mr. KINCHELOE. I am not talking about the persons getting the salaries or about your petty jealousies or about those who are at the head of it. That does not interest me.

Mr. MARSH. I think the terms of the bill do interest you as they do me.

Mr. KINCHELOE. I am going to reserve my judgment on the bill, regardless of what you say, or the other Representatives say. The point I am getting at is that you would have us believe that the American Farm Bureau Federation is an organization that is in collusion with the packers. That is what I want to correct, because that is not true.

Mr. MARSH. Not as to the membership of the organization.

Mr. KINCHELOE. I do not care what petty jealousies you have.

Mr. MARSH. We haven't any, and I think we have a right to point out what their bill does.

Mr. KINCHELOE. You evidently have a very fraternal feeling about it.

Mr. TEN EYCK. Is this their bill?

Mr. MARSH. Mr. Silver told me it was their bill. I have a typewritten copy of it in my pocket. I think——

The CHAIRMAN (interposing). Let Mr. Silver answer for himself.

Mr. SILVER. That bill is in substance the bill. I do not know whether it is word for word, but practically.

Mr. TEN EYCK. And isn't it true, Mr. Silver, you have had a number of delegates and members from the farm federations all over the country here considering these matters relating to farm improvement and farm industry, and is this bill to some extent the outcome of the meetings of those men?

Mr. SILVER. Yes; going back further than that, some years back before the organization of the American Farm Bureau Federation, the midwest States had a committee which had considerable discussion and did considerable work with reference to legislation both for and against the packers from time to time. That same committee had been carried along, not in total, but in main, into the American Farm Bureau Federation. And this is the result of their work. These men have been fighting for a solution of that matter, and it crystallized in my office following this recent convention here, when we had more than a hundred farmers here. And in convention, following the work of the committee, and the different processes of the committee from time to time, this bill is the result of their organization and their work. And as one of their representatives I am transmitting it to Congress.

The CHAIRMAN. You say their work; what do you mean by "their"?

Mr. SILVER. The farmer delegates from the different States.

The CHAIRMAN. That have recently met here in Washington?

Mr. SILVER. Yes, sir.

Mr. MARSH. On page 18 of the Williams bill, which is section 309 (a) it is provided:

> That any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the "defendant"), in violation of the provisions of sections 304, 305, 306, or 307, or of an order of the Secretary made under this title, may, at any time within 90 days after the cause of the action accrues, etc.

Whereas the Haugen bill provides two years, to apply to the Secretary or commission. I do not know why we should limit that to 90 days. Farmers are very busy sometimes and they move slowly, and it seems to me that they should be given as much time as the usual statute of limitations.

On page 24 of the Williams bill, section 316 of the Haugen bill is omitted. I do not know why I will read section 316. It seems rather important. Section 316 of the Haugen bill is as follows:

For the purpose of securing effective enforcement of the provisions of this title, the provisions (including penalties) of sections 12, 14, 16a, 17, and 19, and of the first 10 paragraphs of section 20, of the Interstate Commerce Act, as amended, and of all laws relating to the compelling of testimony before the commission and the immunity of witnesses in connection therewith, or to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the commission, are made applicable to the jurisdiction, powers, and duties of the commission in enforcing the provisions of this title, and to any person subject to the provisions of this title, except that the commission shall have no authority to prescribe the form of accounts, records, and memoranda of a dealer, unless it finds that the accounts, records, and memoranda kept by such dealer do not fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise.

I do not know why that was left out. It is a question I would like to have them bring out. It seems to me in substance it should be included in this amendment and, as I say, we urged you to include at the very beginning of our testimony.

And then on page 25 of the Williams bill, section 402 of the Haugen bill is entirely omitted. Section 402 of the Haugen bill appears printed on page 26 of the Haugen bill, and reads as follows:

If any officer, employee, agent, director, or member of the governing board, of any packer, stockyard owner, market agency, or dealer, negligently omits personally to perform any necessary act or properly to supervise or apportion duties among his subordinates, in the execution of the authority and functions vested in him, and by reason of such omission a violation of this act directly results, he shall be liable to all the penal or other provisions of this act in respect to such violation. The provisions of this section shall be held to extend and not to limit the application of sections 37 and 332 of the act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909, and nothing in this section shall be held to relieve any packer, stockyard owner, market agency, or dealer from the penal or other provisions of this act.

Now, that entire section is omitted in the Williams bill on page 25, where it would follow section 401, and section 402 of the Williams bill is the same—I think identical, practically identical with section 403 of the Haugen bill.

Now, the purport and effect of section 402 of the Haugen bill is, as we construe it, to hold the packers, themselves, personally to a strict accountability so that they can not make a goat out of some subordinate, and so that they can not personally evade responsibility for any action for which they are responsible. We do not see why that should not be incorporated in the bill.

So much for the discussion of the bill itself.

Now, I would like to read some correspondence between Mr. Ed. C. Lasater, and Mr. Gray Silver——

The CHAIRMAN (interposing). In that connection, there has been a good deal of discussion over this section.

Mr. MARSH. Section 402 of your bill?

The CHAIRMAN. Yes; and the members of the committee and the drafting service have been trying to find some language that would broaden the other act, and at the same time we do not want to go to the extent of putting everybody in jail.

Several amendments have been suggested on that matter. Now, if you can suggest any language as a compromise between this language and striking it out entirely, we will be glad to have it. I think

the only contention here is in the word "negligently." Now, the other word that you suggested is "willfully." Of course the burden of proof would be to show that it was done willfully, and it would probably be hard to prove an abuse.

Mr. MARSH. Well, I don't know as "willfully" would weaken it. It is hard to prove the purpose for any act. If you have the expression "willfully," it might be that the judge would know what his authority should be or what his responsibility is, assuming there is action in it by the Secretary of Agriculture, or whoever has charge of it.

The CHAIRMAN. It is harder to prove the word "willfully" than "negligently."

Mr. MARSH. I beg pardon.

The CHAIRMAN. I think it is harder to prove that it was done willfully than negligently.

Mr. MARSH. I think it would be a little harder. You can prove that it was done, and then he would say he forgot it; but it is harder to get a conviction for negligence.

Now, on December 22 Mr. Ed. C. Lasater wrote the following letter. I will read it in full.

Mr. KINCHELOE. Who is Mr. Ed. C. Lasater?

Mr. MARSH. He is a large grower of live stock at Falfurrias, Tex. He has been before this committee several times. He wrote Mr. Silver as follows:

NEW YORK, *December 22, 1920.*

Mr. GRAY SILVER,
Occidental Hotel, Washington, D. C.

MY DEAR MR. SILVER: It is my understanding that Mr. Howard and yourself are in favor of national legislation for regulating the meat-packing industry covering the following principles:

First. A uniform accounting system to be prescribed by some national agency.

Second. Acquisition of stockyards by the railroads.

Third. Acquisition of all refrigerator and special-equipment cars for handling meats and all perishable farm products by the railroads.

Fourth. To have the Department of Agriculture give advice and information to cooperative and municipal slaughterhouses and distributing agencies for all perishable products in our industrial centers, along the lines of section 14 in the present Gronna Senate bill.

I might say that is practically the same as the Kenyon-Anderson bill. The letter continues:

Please advise if this understanding is correct. Address me at 30 East Sixtieth Street, New York. I think that the farming interests can reasonably hope for much from the organization which you gentlemen represent. Assuring you of my best wishes, I am,

Very sincerely, yours,

ED. C. LASATER.

On December 31, 1920, the following letter was sent by Mr. Silver:

AMERICAN FARM BUREAU FEDERATION,
Washington, D. C., December 31, 1920.

Mr. ED. C. LASATER,
30 East Sixtieth Street, New York City.

DEAR MR. LASATER: Replying to your letter of December 22, would say that your understanding of what we believe is needed in the way of national legislation for the regulation of the packing industry is correct. Any time you are in Washington we will be very glad to have you call and see us. We always enjoy having you with us. With best wishes,

Sincerely, yours,

GRAY SILVER,
Washington Representative.

Now, on December 31, 1920, that was the opinion—I do not say of the American Farm Bureau Federation, but according to Mr. Silver, he says: "We believe," and signs himself, "Washington representative."

Thus, it seems to us, that these provisions are the very minimum required, and you will notice there is a very wide distinction between the position of the American Farm Bureau Federation as expressed by Mr. Silver, when he says "would say that your understanding of what we believe is needed in the way of national legislation for the regulation of the packing industry is correct." I do not know whether he speaks for the——

Mr. KINCHELOE (interposing). Suppose Mr. Silver changes his mind, what effect is that going to have on this committee? He is not writing this bill or passing on it.

Mr. MARSH. May I answer the question?

Mr. KINCHELOE. How is this committee interested in any differences between you and Mr. Silver? It seems brotherly love does not run freely between you. What effect does that have on any member of the committee legislating for the packers?

Mr. MARSH. As a practical man, you will know what bearing it has on legislation to have an agreement between the packers and the American Farm Bureau Federation. The packers are extremely astute gentlemen; they know——

Mr. KINCHELOE (interposing). That is not answering my question. If Mr. Silver has changed his mind, what effect will it have on legislation, and what do we care anything about that?

Mr. MARSH. I can tell you a good deal better when I see the legislation that comes through.

Mr. KINCHELOE. You can tell what better, you mean?

Mr. MARSH. I can see what effect this change would have.

Mr. KINCHELOE. You mean on the membership of this committee?

Mr. MARSH. On the entire membership of Congress, and on the entire country, if the farmers agree on what legislation they want to have. If they do not agree, wouldn't it be more difficult to get the legislation which they might want?

Mr. TEN EYCK. Mr. Marsh, the packers can not control me.

Mr. MARSH. I know that.

Mr. TEN EYCK. I am going to vote for the bill I think is for the best interests of the entire country, and for the farming interests. That letter of Mr. Lasater, how does that relate to the Silver bill or the Haugen bill?

Mr. MARSH. My testimony on Tuesday pointed it out.

Mr. TEN EYCK. You do not accuse Mr. Haugen, because he did not get your ideas first of endeavoring to work with the packers?

Mr. MARSH. No; by no means. Mr. Haugen has not expressed himself as in favor of these provisions.

Mr. TEN EYCK. What I am getting at is this: I for one am never afraid of what anybody calls a so-called lobby. My office is open at any time to packers to come in, and to the farmers to come in, and to the labor organizations to come in, and all like associations, because if we hear them we will have information from all sides. I am glad the American Farm Bureau Federation has put this bill in, and I am pleased to have heard the packers yesterday and to-day, and I am glad to have Mr. Haugen's bill, and I am glad to hear from

everybody. What I object to is not that you point out the difference between these bills, but accuse the American Farm Bureau Federation of not playing fair.

Mr. MARSH. I don't think that is a fair bill. I am going to the farmers to say so. I think it is unfair, and I think it is unjust, and I know you concede me the right to that opinion.

Mr. TEN EYCK. As I said before, I have no objection whatever to you expressing any opinion you have as to the relative value or merits of the two bills, but I do resent what you say, if you say the American Farm Bureau Federation is not playing fair with the farmers.

Mr. MARSH. Well, I regret your resentment, and I regret very much that some of the Farm Bureau's actions seem to indicate what I have said, and I regret that very much more than I regret your resentment, very much as I regret that.

Mr. JONES. You are supporting the same bill and measure you were the other day?

Mr. MARSH. The same measure, to control the packers, absolutely, Mr. Jones.

Mr. JONES. The American Farm Bureau Federation—what measure do they indorse? This is for my own personal information.

Mr. MARSH. They have asked Mr. Williams to introduce a bill which I have been discussing.

Mr. JONES. That is all.

Mr. KINCHELOE. As Mr. Ten Eyck says, I welcome your information and opinions on these two bills, in pointing out the differences. But your differences with Mr. Silver and the petty jealousies between you do not interest me.

Mr. MARSH. The merits of our differences will interest the farmers.

Mr. KINCHELOE. I want to hear your ideas about that, and Mr. Silver's ideas about that, and we have had the packers the last two days, and I confess I need all the information I can get, and then I will draw my own conclusions and opinions.

Mr. TEN EYCK. I regret that Mr. Williams is not here to say something about his bill. I think before this record closes he should have an opportunity to explain it.

The CHAIRMAN. I understood you, Mr. Silver, were the author of the bill, or the man that presented it?

Mr. SILVER. Yes.

The CHAIRMAN. And you will discuss it?

Mr. SILVER. Yes, sir.

Mr. KINCHELOE. I understood him to tell Mr. Marsh that about all he had to do with it was to introduce it.

Mr. MARSH. I told Mr. Williams that I regretted to have to discuss his bill in his absence, and he told me that practically all he had to do with it was to introduce it.

Now, Mr. Chairman, to take up some of the criticisms about your bill. To take up the objection of Mr. Creigh to section 204 (a). He seemed to think that would cause a general hunting expedition. He objected to sections 204 (a) and (b), on page 6 of the bill. Section 204 (a) starts:

> Whenever the Secretary has reason to believe that any packer has violated or is violating any provision in this title, he shall cause a complaint in writing to be served upon the packer, specifying the alleged violations.

Now, it seems to me, Mr. Chairman, that this statement of Mr. Creigh is important, and I am glad he is in the room, and am glad Mr. Veeder is here, because he is here for the packers. The packers do not want the facts known, and they have continually objected to this. I want to read you from what the Federal Trade Commission said about their investigation. This is from the summary of the report of the Federal Trade Commission on the meat-packing industry. [Reading:]

The commission, through Mr. Heney, had to meet deliberate falsification of returns properly required under legal authority; we had to meet schools for witnesses where employees were coached in anticipation of their being called to testify in an investigation ordered by you and by the Congress of the United States; we had to meet a situation created by the destruction of letters and documents vital to this investigation; we had to meet a conspiracy in the preparation answers to the lawful inquiries of the commission.

Now, Mr. Chairman, if I understood Mr. Creigh correctly—and I do not want to do him an injustice; I am not a shorthand writer, and have to rely on my memory—but if I understood him correctly, he wanted a full bill of particulars regarding the violations. I think it was Mr. Voigt who asked about specifying the amendment "with a reasonable degree of particularity." Let me see what the amendments have been. I read from this summary of the report of the Federal Trade Commission on the meat-packing industry, page 8 [reading]:

We also know that the five packing companies—Armour, Swift, Morris, Wilson, and Cudahy—conspired together in the preparation of their answers to the commission's inquiries to the end that all should agree. As part of the evidence in our possession substantiating this statement, the following letter is submitted.

It is dated August 2, 1917, addressed Messrs. G. F. Swift, jr., F. S. Hayward, R. C. McManus, A. D. White, J. M. Chaplin. L. D. H. Weld.

Mr. CREIGH. Mr. Marsh, if you do not mind, I call your attention to the fact that all that was gone over last night.

Mr. MCLAUGHLIN of Nebraska. That letter with explanations was put in about six different times.

Mr. MARSH. I do not want to encumber the record with anything that has already been gone over. Unfortunately I have not been able to be here all the time, as I have several other hearings.

But I think we are justified in saying that the meat packers do not want any effective legislation. I shall not take much time to dwell on that. It is not necessary. Their record shows it. The whole fight is whether we are going to get that regulation for which we have made 12 years' effort—whether we are going to get that regulation after 12 years' effort or not.

And I do not think it should be allowed to go unchallenged, the statement that there has been no complaint made, the statement made by Mr. Creigh. Why, there was complaint from everywhere; there was complaint from all over the country, from the live-stock producers and the consumers, and this call for legislation was due to what was a national complaint about the packers.

They said they had no day in court. Well, Senator Norris, if I remember, in the Senate committee offered to let them put in any testimony, and I know in this committee they have had an opportunity to present their case. It simmers right down to this, that they do not want to be regulated.

But I noticed how enthusiastic Mr. Creigh was to have regulation of future dealings in grain. It all depends on who is to be regulated. If I correctly understand, in the Tincher bill, or any adequate bill for the control of dealing in futures, the principle is identically the same, though the application is different as in this packer-control legislation, and no plea which the packers can put up as to the small packers ought to have any weight at all.

This morning Mr. Wilson said the one great trouble is the unscientific and inefficient system used by the producers in marketing their products and their live stock, and Mr. Creigh this afternoon said the producers are justified in not having anything or enough to say about the way they handle their live stock. In other words, there is an entirely different conclusion reached by the two representatives of the meat-packing concerns.

Now, I want to make this clear, and I want to have it understood that I am presenting this on behalf of the Farmers' National Council and the Peoples' Reconstruction League, and the four great railway brotherhoods, who were represented here by Mr. W. N. Clark, the vice president of the railway conductors, that we have not asked legislation, so far as we can understand legislation, which will mean any improper restriction of the packers; we do not ask for any hasty or unjust action; we ask for full publicity as to their conduct. I want to say this, Mr. Chairman, if the packers are making the small profit which they claim they are making—if the packers are making these small profits, and if they have anything like the efficiency which they claim they have, then the legislation which we seek which is, with some slight amendments, similar to the Haugen bill—then the legislation which should be enacted to control them in this country will not harm them. We have pretty accurate information, we think that they are not keeping proper records and that they keep their books in such a way that they can conceal their real profits. We hope that you will promptly enact this legislation.

Let me urge again, in conclusion, that we feel there will be no permanent solution for these meat-packing industry abuses until all refrigerator and special equipment cars and all principal stockyards are made by law what they are in practice, common carriers, and owned by the railroads and operated by them under the control of Interstate Commerce Commission.

I think that covers my brief summary. I could go into more points, but I do not want to cumber the record.

The CHAIRMAN. Very well, Mr. Marsh; we thank you.

Mr. Silver, do you want to be heard?

Mr. KINCHELOE. Let me ask, is there a member of the Federal Trade Commission to be heard?

The CHAIRMAN. They will be here shortly, and are probably here now. We have only one witness who wants a few minutes. Yes; he is right in the room now.

Mr. Silver, we will hear you.

STATEMENT OF MR. GRAY SILVER, WASHINGTON REPRESENTATIVE OF THE AMERICAN FARM BUREAU FEDERATION.

Mr. SILVER. Mr. Chairman and gentlemen of the committee, I will be brief and confine my remarks to the subject and I shall stick closely to the text of the bill before us.

The CHAIRMAN. Proceed in your own way.

Mr. SILVER. I desire to say, that our farmers, the people I represent, are very much interested in having legislation that has to do with properly supervising the packers and getting a different result out of the stockyards of the country where they market their stock, and that in doing so and for the purpose of bringing about that legislation, they have seriously and earnestly, through committees and otherwise, worked on this matter for some years. They have gotten information where they could; they have met with the people that had information and have in every way looked out for information that would help them to arrive at a fair conclusion, keeping in mind that the farmers are the producers of this live stock before it goes to any processor, and before it goes to the consumer, and they do have this very large interest to defend and protect by being the producers of this stock before it leaves the farm.

And they have a great interest in knowing and seeing as it goes along that the channel is not dammed or checked in such way as may be equivalent to a dam at times, but that it has an orderly process from the farm to the consumer, and that in that process or channel there are no unnecessary obstructions that either reflect in unnecessarily low prices to the producer or in too high prices at the other end; for too low prices to the producer makes for an unhappy situation, and too high prices to the consumer reflects it also by curtailing consumption.

So in this bill we are endeavoring to see they have a proper supervision, a supervision that will disclose all the acts of the stockyard people, and of the packers, and that the Secretary has proper authority over the bookkeeping system, that when the records—if the time should be or ever has been that the records did not disclose the facts—that the supervising power can prescribe such methods as will enable them to know all the facts and things that will have to do with the business from the time it goes into the yard at one end and until it goes out of yards or plant at the other end. One of the reasons they ask that this supervisory power be in the Department of Agriculture is that the Secretary of Agriculture has similar authority in other bureaus that are doing work of this sort, and these bureaus will fit in with the others and the processes all the way down, under the Secretary of Agriculture.

In doing the work on this bill, the Haugen bill has been largely the basis. There have been some amendments and those amendments, in the judgment of our committee, are desirable. We do not come here with something and ask you not to use your judgment. We submit our viewpoint. It is up to the members of this committee and to the Members of this Congress to determine the legislation.

The CHAIRMAN. That is your privilege, and the privilege of everybody else. We invite everybody.

Mr. SILVER. That is the spirit we are doing it.

The CHAIRMAN. And this committee has encouraged it.

Mr. SILVER. Now, I have here, written out, every amendment or every change or difference between the Williams bill and the Haugen bill.

Mr. KINCHELOE. Have you got that so it can go into the record?

Mr. SILVER. I will be very glad to leave it with you, and it can go in the record and it gives every difference between them. We have briefed them so that we could have that difference. I am taking the bills as we turned through them; on the first page, where we strike out after the words "live stock" the word "products" and used the words "meat food products" and "edible" to make it clear.

The CHAIRMAN. Without objection, this statement may go in.

(The statement referred to is as follows:)

Page 1, line 10, strike out "horses, mules" and add "and" after "goats."

Page 1, line 11, strike out words "live stock" and insert in lieu thereof the words "meat food"; and, after "all," insert "edible."

Page 1, line 13, strike out "derived in whole or in part from "live stock."

Page 3, line 5, strike out the word "live" and insert in lieu thereof "meats."

Page 3, line 6, strike out "stock products" and insert in lieu thereof "meats or meat food products."

Page 4, line 1, strike out the word "title" and insert in lieu thereof "act."

Page 4, line 3, insert, after "packer," "with the effect of unduly restraining commerce or of creating a monopoly."

Page 8, line 5, insert, after "by," "the weight of the."

Page 8, line 17, insert, after the word "by," "the weight of the."

Page 9, line 4, strike out all of the words after "decree."

Page 9, line 5, strike out entire line.

Page 9, line 6, strike out entire line.

Page 10, line 14, insert, after "packer," "stock owner or market agency."

Page 10, line 19, insert, after "packer," "stock owner or market agency."

Page 10, line 21, insert, after "who," "fails to"; strike out final "s" in "keeps"; strike out "any other or different"; insert, after "keep," the word "such."

Page 10, line 22, strike out the words "than those" and insert in lieu thereof "in the manner and form."

Page 10, line 23, insert, after "packer," "stock owner or market agency."

Page 11, line 19, strike out "(1)."

Page 11, line 20, strike out "or (2) furnish-."

Page 11, line 21, strike out "ing stockyard services" and insert at end of line 13.

Page 12, line 3, strike out the term "'com-."

Page 12, line 4, strike out "mission' means the Interstate Commerce Commission."

Page 12, line 9, strike out "horses, mules."

Strike out the word "commission" and insert in lieu thereof "Secretary": Page 12, line 15; page 12, line 25; page 13, line 4; page 13, line 8; page 14, line 3; page 14, line 7; page 14, line 15; page 14, line 19; page 14, line 25; page 15, line 3, page 15, line 9; page 15, line 12; page 15, line 14; page 15, line 16; page 15, lines 22–23; page 16, line 5; page 16, line 9; page 16, line 20; page 17, line 4; page 17, line 11; page 17, line 22; page 18, line 2; page 18, line 12; page 18, line 14; page 18, line 16; page 18, line 19; page 19, lines 1, 3, 10, 13, and 16; page 20, lines 1, 3, 15, and 18; page 21, lines 4, 6, 10, and 19; page 22, line 5; page 23, lines 6, 7, 8, 11, 14, and 19; page 24, lines 11 and 13.

Strike out the word "it" and insert in lieu thereof "he": Page 12, lines 16 and 20; page 13, line 9; page 15, line 18; page 19, lines 2 and 18.

Strike out the word "its" and insert in lieu thereof "his": Page 15, lines 17 and 24; page 19, lines 11 and 18; page 21, line 4; page 23, line 17.

Page 17, after end of paragraph "(h)," line 13, insert "any stockyard owner, market agency, or dealer may appeal from any order, rule, regulation, or action of the Secretary, in which case the procedure shall be as provided in sections 204, 205, and 206, Title II, of this act, and no penalty shall accrue in such case until said order, rule, regulation, or action shall become final."

Page 19, line 13, strike out "two years," and insert in lieu thereof "ninety days."

Strike out all of section 316, on pages 24 and 25.

Strike out all of section 402, on page 26.

Strike out the word "title" in section 208, second line, and add in lieu thereof the word "act"; make same change in first word, second line, next page.

Mr. JONES. Which bill is this you are speaking of?

Mr. SILVER. The Williams bill.

The CHAIRMAN. Why do you strike out "horses and mules"?

Mr. SILVER. It was our thought that the horses and mules are not usually killed, so there was no need of bringing them in; that horses and mules are sold in many stockyards in this country where the killing of cattle is not carried on. Those yards are under the authority of the Interstate Commerce Commission.

The CHAIRMAN. But they slaughter horses.

Mr. SILVER. To some extent.

The CHAIRMAN. They were brought under the meat inspection act.

Mr. SILVER. Yes.

The CHAIRMAN. They are handled exactly the same as live stock.

Mr. SILVER. When it is used for that purpose, it is under the act, but where there is no such use, we thought it was not necessary.

The CHAIRMAN. We simply used the language of the other act; I do not think it is of very much importance. But you would not want to include one and exclude the other.

Mr. SILVER. Wherever it is edible it is under this language, and it was thought that we would control the meat-food products or edible meat-food products in this bill. We have different thoughts on the question of by-products. For instance, fertilizer. I could mention others. There is no thought that we want to bring such companies as the American Woolen Co. or the fertilizer manufacturers under the bill. The large packers do not produce a large percentage of the fertilizer, and we want to control that industry in some other way. We would want to control the fertilizer industry in another way; we would approach it from another angle.

Now, that appears beginning on page 3.

Mr. KINCHELOE. You mean you would control it from another angle?

Mr. SILVER. Approach it.

Mr. KINCHELOE. What other angle—some other legislation, you mean?

Mr. SILVER. Some other legislation that would not connect it up as this does. When we approach it we want to bring in the fertilizers as a whole, and not in part.

On page 4 we have the amendment referred to awhile ago "with the effect of unduly restraining commerce or of creating a monopoly." That, in the judgment of our committee, was desirable. You gentlemen, of course, pass on it. You know whether it is, in your judgment, best or not.

The CHAIRMAN. Tell us why the limitation.

Mr. SILVER. Keep in mind that while I was a member of the committee, I was unable to sit with them except while they were here in Washington. This work was largely done eslewhere. I am not as familiar with this bill as I ought to be to testify before the committee. Mr. Howard Leonard, chairman of the committee, ought to be here, but I am doing the best I can.

But the thought is that our committee wants to go as far as they can rightly go, not to reflect any harm on the producers of the live stock. I think, also, that under the supervisory powers we will have information and a starting place from which amendments or additions can be made when necessary. We are doing a certain amount

of guessing at this time as to this legislation. We will not be doing guessing when we know the conditions and know what we want to cure.

Mr. KINCHELOE. Let me ask you: You say, I understand, this bill meets the approbation or views of all your committee?

Mr. SILVER. Yes.

Mr. KINCHELOE. How was this committee formed to write this bill, and who selected them?

Mr. SILVER. This committee was appointed by Mr. Howard, our president, at a Chicago meeting something like a year ago, but taking a committee that had been operating for some time under the mid-west groups.

Mr. KINCHELOE. Is that the committee of 17?

Mr. SILVER. No; that was a grain committee exclusively.

Mr. KINCHELOE. It was a committee to draft this legislation?

Mr. SILVER. Yes; and Mr. Howard, Mr. Leonard, and others appeared here to testify.

Mr. TEN EYCK. This committee was appointed at an annual meeting, were they not?

Mr. SILVER. I think so, but I am not sure. It was at a Chicago meeting.

Mr. KINCHELOE. How many are on the committee?

Mr. SILVER. Five.

Mr. KINCHELOE. This bill was introduced on the 3d; it did not get through, or was not written before that?

Mr. SILVER. Yes; it came to my office recently.

Mr. KINCHELOE. You say you do not know the membership of that committee?

Mr. SILVER. Mr. Howard Leonard is the chairman, and I think Mr. Sconce was at one time on it, and later some one succeeded him. I was a member of it, but as I was at Washington and busy, I did not sit much with the committee.

Mr. KINCHELOE. You do not know the membership, you ssy?

Mr. SILVER. Mr. Howard Leonard, the chairman, and——

Mr. KINCHELOE. Were they selected on account of geographical location?

Mr. SILVER. No, sir; because they were from the midwest group, and they were all men who had to do with the packer legislation, and were familiar with that subject.

Mr. KINCHELOE. Were there any farmers on that committee?

Mr. SILVER. They were all farmers.

Mr. KINCHELOE. I was asking for information.

Mr. SILVER. Yes; each one was a farmer.

Mr. SINCLAIR. Can you give us the names of that committee?

Mr. SILVER. Yes; President Howard, Howard Leonard, D. O. Thompson, and S. W. Tater, and the legislative committee consisting of Messrs. Bradfate, Jamison, and Gray.

This bill was discussed on our convention ——

Mr. KINCHELOE (interposing). Was there any action taken on this bill for legislation at your convention here?

Mr. SILVER. This bill is the result of the action of the committee and the convention.

Mr. KINCHELOE. You mean the Washington convention discussed and approved this bill?

Mr. SILVER. Yes; we passed a resolution and I am here to transmit it and the bill to you.

RESOLUTION.

We recommend that there should be regulatory legislation concerning the meat-packing industry to insure live-stock production against unfair practices. We further believe that such regulatory power should be vested in the Department of Agriculture. We reaffirm our previous resolution for fair and just measures in the interest of both the industry and the producers.

The CHAIRMAN. Did the convention adopt a resolution authorizing the appointment of a committee?

Mr. SILVER. No; it came in from the committee; the committee had been at work for years.

Mr. TEN EYCK. What the chairman meant, Had the Chicago convention appointed a committee; at the convention in Chicago, was there a committee appointed?

Mr. SILVER. Yes.

The CHAIRMAN. There or at Washington?

Mr. SILVER. The committee was at work before the Washington meeting; it was authorized in that way.

Mr. JONES. It was authorized at Chicago?

Mr. SILVER. Yes.

Mr. KINCHELOE. You say it was brought from Chicago and approved at Washington?

Mr. SILVER. Not in this form exactly.

Mr. KINCHELOE. Is there a record of the minutes of the meeting at Washington?

Mr. SILVER. The minutes of the meeting I have not with me.

Mr. TEN EYCK. It was not a convention; it was an assembly of the delegates?

Mr. SILVER. That is what it was. We called it a convention. It was a getting together of the delegates of the States, and we invited a number, and we had some 60 or 75 or 100 farmers here.

Now, on page 10, in the amendment as to the bookkeeping [reading]:

The Secretary may prescribe the manner and form in which accounts, records, and memoranda shall be kept, and thereafter any packer who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary, shall, upon conviction, be fined not more than $5,000 or imprisoned not more than three years, or both.

That is intended to give full control to the Secretary, and this bill provides for him having supervisory powers to prescribe the form. That does not mean that they may not have a memoranda or stock list, or something, but so far as the records disclose what their business is, it is prescribed by the Secretary of Agriculture, unless you see fit to put the authority elsewhere.

I am not calling attention to the striking out of the title, and such as that.

Of course, where we strike out the word "commission," the word "Secretary" is used instead.

Now, over on page 17, paragraph (i), that is a place where I would like to ask to strike out the provision with reference to its being thereafter violated. We do not want that in.

The CHAIRMAN. Will you kindly state why you omitted the words on page 11, "or furnishing stockyard services?'

Mr. JONES. What line is that?

The CHAIRMAN. It is on line 20.

Mr. SILVER. We want to write that in the term following stockyard "operating a stockyard or furnishing stockyard services"; changing from one place to the other.

The CHAIRMAN. You want to insert that some place else?

Mr. SILVER. Yes.

The CHAIRMAN. It has not been so inserted.

Mr. SILVER. We will insert it now.

The CHAIRMAN. You want to preserve that?

Mr. SILVER. Yes; we want to include that, but thought it was better in the line above.

Then on page 18, where it is two years' time. We are not particular about the 90 days. Make it two years if you want to, but we thought when the matter was fresh in the minds of the people who are competent to testify it ought to be closed. We are not objecting to any other time that the committee thinks proper. It might be better to make it six months, but we thought 90 days was a sufficient time.

The CHAIRMAN. What about page 12; do you care to comment on that?

Mr. SILVER. Maybe I have left out something.

The CHAIRMAN. You left out something about what the stockyards that are within the definition are finally; that is, the Secretary defines what stockyards come within the requirements, 150,000 head of cattle, and 500,000 hogs.

Mr. SILVER. Yes.

The CHAIRMAN. And you leave out the particular language that provides that the findings shall be final; that is, the finding as to what stockyards are within the foregoing definition.

Mr. SILVER. After I go over the bill I will turn to my memorandum a minute.

The CHAIRMAN. Well, pass by it.

Mr. SILVER. I haven't it just in mind.

Over on page 24, in section 316, that was stricken out because we find they have that same authority elsewhere.

And in section 402, the chairman kindly explained that a while ago. It was the same thought you expressed a while ago; it is not the corporate responsibility, but personal responsibility. That expresses our choice. We are not arbitrary, but we are giving you the benefit of our thought.

The CHAIRMAN. Have you substituted any other language for what there is there?

Mr. SILVER. I don't know that I can answer that. It was discussed in my presence; that is, whether they had some other language in mind, but they did not transmit it to me. If they had some other thought, it did not reach me.

Now, that is in a hurried way going through and pointing out the differences.

Now, you are all familiar with the Haugen bill, and the provisions of the Haugen bill as amended.

The CHAIRMAN. Do you care to comment on any of the other bills?

Mr. SILVER. I think not. They are before you. I was transmitting our thought, and telling you how we arrived at it and am leaving it with you gentlemen. Unless there are some questions, that is all.

The CHAIRMAN. We thank you very much.

Mr. SILVER. Let me say just one more word about the letter of Mr. Lasater. To my mind we have complied, either in this bill or some other legislation, with every provision of the Lasater letter. I brought that in to explain it. Mr. Lasater did write me, and I answered him. But we have complied, in one form or another, we think.

The CHAIRMAN. We all appreciate there is a difference of opinion on the various acts.

Mr. SILVER. Yes.

Mr. THOMPSON. You represent the farm bureaus, do you?

Mr. SILVER. Yes.

Mr. THOMPSON. Are you in favor of indorsing the Williams bill; does that meet your approval, as you have amended it here?

Mr. SILVER. Yes.

Mr. THOMPSON. Is that the idea of the bureau?

Mr. SILVER. Yes.

Mr. THOMPSON. Have you conferred with the packers in any way?

Mr. SILVER. Our group has conferred with the packers, the same as with many others, including the Secretary of Agriculture.

Mr. THOMPSON. Trying to get together; is that the idea?

Mr. SILVER. Bringing everybody in——

Mr. THOMPSON (interposing). On this Williams bill, or the so-called Haugen bill, it is your idea to get together and offer some legislation that will be acceptable to all parties?

Mr. SILVER. Yes.

Mr. THOMPSON. That is all I want.

Mr. VEEDER. May I make one statement, so as to avoid a misunderstanding in the record? There has been considerable discussion here whether horses and mules shall be included in this bill or not. None of the packers, and no packers, so far as I know, are engaged in the slaughtering of horses or mules for food. During the war, I think, there were some slaughtered for export, but not for consumption in this country. Horses and mules are bought and sold in the stockyards, but not for the purpose of slaughter.

The CHAIRMAN. You are also aware that there are some plants in Milwaukee, and probably other parts of the country.

Mr. VEEDER. No; I am not familiar with any plants that slaughter horses and mules.

The CHAIRMAN. Not now; they were.

Mr. VEEDER. There was a time they were slaughtering them for export. But horses and mules are included in this bill. They are bought and sold for other purposes at the stockyards.

The CHAIRMAN. The thought was this, that if anybody is attempting to slaughter horses for meat it might be well to include it in this bill.

Mr. VEEDER. I wanted to make that explanation.

The CHAIRMAN. You have no objection to including horses?

Mr. VEEDER. I have no objection to including horses and mules, but I made that explanation so there would be no misunderstandings. I do not see the use of putting it in.

The CHAIRMAN. We will now hear from the representative of the Federal Trade Commission.

STATEMENT OF MR. WALTER Y. DURAND, ASSISTANT CHIEF OF COMMERCE, FEDERAL TRADE COMMISSION.

The CHAIRMAN. Please state your name.

Mr. DURAND. Walter Y. Durand, Assistant Chief of Commerce, Federal Trade Commission.

Mr. Chairman, the commission received from you this letter, dated May 5, inviting it to send a representative here to this hearing, and if I may, I will read this letter so that it may be in the record.

MAY 5, 1921.

Hon. HUSTON THOMPSON,
Chairman Federal Trade Commission, Washington, D. C.

MY DEAR MR. THOMPSON: I have been instructed by the committee to invite you to send a representative to appear before the committee to-morrow afternoon, Friday, May 6, in connection with the meat packer hearings now being held and which close to-morrow. The resolution extending the invitation requests information as to whether you commission's report on the packer investigation was sent through the State Department or otherwise to the foreign governments, and if so, a copy of the letter of transmittal, and the reason for so doing.

Very truly, yours,

G. N. HAUGEN, *Chairman.*

I have been asked by the commissioners to appear here as representing them in responding to this request of the committee.

Answering as to whether the commission's meat-packing report was sent through the State Department or otherwise to the foreign governments, that question has already been answered specifically by the commission in a special report made to the Senate on July 31, 1919, in response to Senator Sherman's resolution. This report, in response to that resolution, was printed in the Congressional Record of July 31, 1919, pages 3410 to 3419, and with your permission I will explain briefly, particularly for the benefit of any new members of the committee, what the Sherman resolution was, and this will explain also why the commission is unable to send you a response to that part of your request asking that it furnish a copy of any letter transmitting the meat-packing report to foreign governments.

Senator Sherman's resolution, which was referred to the Senate Committee on Interstate and Foreign Commerce, was as follows:

JULY 10, 1919.

RESOLUTION.

Resolved, That the Federal Trade Commission be, and is hereby, requested to furnish to the Senate, at the earliest possible moment, copies of all documents, correspondence, or other papers in its possession relating to its efforts or action in promotion or concerning the export trade in meats from the United States to the United Kingdom of Great Britain or any of its colonial dependencies, and other countries, and especially any communications by the Federal Trade Commission, or any of its members, officers, agents, or employees with the officers or agents of any foreign government, and more especially all communications had with the Ministry of Reconstruction of Great Britain or the members thereof appointed in 1918, and to include all correspondence with the Hon. Charles A. McCurdy, Member of Parliament, of the Ministry of Foods, and recently chairman of the committee on trusts; also such correspondence with any other member of the Ministry of Reconstruction in relation to the meat industries of the United States.

That resolution was adopted, following charges on the floor of the Senate that the commission, and particularly Commissioner Colver, had deliberately attempted to injure the export or foreign trade of the packers; that Commissioner Colver had gone to England at public

expense; that he had made speeches and given out interviews attacking the packers. Extracts from an alleged interview with Commissioner Colver as printed in the London Star, were read into the record.

When the Sherman resolution was answered in detail by the commission's report to the Senate, and the voluminous documents called for by the resolution were transmitted to the Senate, among the documents was this letter which your committee requests us to furnish. It is listed in the report like this; that is, in the commission's report to the Senate in answer to the Sherman resolution: You will find it on page 3414 of the Congressional Record for July 31, 1919:

Mr. KINCHELOE. How long is that letter?

Mr. DURAND. This is a short paragraph listing the letter.

Mr. KINCHELOE. Have you got the letter?

Mr. DURAND. I have not got the letter.

Mr. KINCHELOE. Do you mean the letter written by the Secretary of State to the foreign countries?

Mr. DURAND. Yes; I do not have it. I was explaining why I could not give it to the committee. I will give you a copy of it that appears in the Congressional Record. I was just explaining that the resolution calling for that report called for a lot of data, and this was listed in the commission's report as follows, reading from page 3414:

File 8754–4303: Letter September 27, 1918, from Federal Trade Commission to Chief Diplomatic Bureau, State Department, Washington, requesting that copies of meat-packing report be sent through the proper channels to the foreign Governments named. (Inclosure to foregoing letter, being copy of suggested letter transmitting said report to the heads of the respective Governments.)

Mr. KINCHELOE. You say that letter is in the Congressional Record somewhere?

Mr. DURAND. That letter we can not furnish you, because the resolution, while as adopted by the Senate it called for copies of all those documents, the commission found that such a mass of material was included under the terms of the resolution that it directed its secretary to communicate with the Secretary of the Senate as to the proper method of procedure, because the resolution indicated that it desired the documents to be furnished with the utmost dispatch, and the commission was advised by the Secretary of the Senate that the commission should furnish to the Senate the originals of all those documents, and that the Senate would then copy such of the documents as it desired to keep for its files and would thereafter return all of the originals to the commission. Now, none of those originals have been returned.

Mr. KINCHELOE. And it includes this original letter?

Mr. DURAND. These documents include the letter that you refer to. As I understand, the letter is now in the files of the Senate committee.

Mr. CLARKE. Along with the letter went the summary of the report?

Mr. DURAND. I will read you what is in the letter. I might say that the commission happens to have copies or photostat copies of a great many of those documents that went to the Senate, but did not happen to have any copies of this particular letter that went to the Senate. However, I have a printed quotation of the letter, which, as I say, was read into the Congressional Record by Senator Sherman on January 21, 1921.

Mr. KINCHELOE. Haven't you that here?

Mr. DURAND. I have here a copy of the letter as read by Senator Sherman, as he quoted it.

Mr. CLARKE. Is that the entire letter?

Mr. DURAND. It purports to be the entire letter, a correct copy. I could not certify to that. Senator Sherman says, on January 21, 1921, on page 1748 of the Congressional Record, speaking of this letter; it is addressed to the Chief of the Diplomatic Bureau of the State Department, Washington, D. C., and is as follows:

It is requested that one copy of the Federal Trade Commission's summary to the report of the meat-packing industry be sent through the proper channels to the head of each of the countries listed below:

Great Britain, France, Brazil, Paraguay, Panama, Guatemala, Italy, Spain, Chile, Mexico, Cuba, Switzerland, Argentina, Venezuela, Uruguay, Haiti, Sweden, Norway, Colombia, Portugal, and Honduras.

There is inclosed a form letter, containing ideas the commission desires to convey to the recipients of this report, which material is to be used as your judgment may direct.

The commission appreciates your courtesy in taking care of this matter.

Very truly, yours,

FEDERAL TRADE COMMISSION.

And then Senator Sherman adds——

Mr. TEN EYCK. What was the date of that letter?

Mr. DURAND. September 27, 1918, and I have read the letter as Senator Sherman quotes it.

Then Senator Sherman adds:

Here is the form letter referred to which I have been able to procure, filled out and addressed to the President of Switzerland. It is dated September 26, 1918, and reads:

Mr. THOMPSON. Who was that addressed to?

Mr. DURAND. The foreign governments.

Mr. KINCHELOE. That is, by the State Department?

Mr. DURAND. This was following a form letter to the State Department. The commission does not know whether any letter was sent out by the State Department or not.

Mr. CLARKE. It is in the record last night that it got into the hands of the Department of Agriculture of Greece.

Mr. THOMPSON. That was testified to yesterday.

Mr. KINCHELOE. That letter seemed to be complying with a request.

Mr. LIGHTFOOT. It is a summary of a report, and a copy of this summary of report was found in the Department of Agriculture of Greece a short time after the date of this letter. It was assumed it reached there through the channels, having been sent there a short time after the date of this letter.

Mr. THOMPSON. Is there any evidence to show that that letter was transmitted by the State Department; are you going to lead up to this?

Mr. DURAND. There isn't any here.

Mr. THOMPSON. Have you any knowledge?

Mr. DURAND. No, sir.

The CHAIRMAN. Would you prefer to conclude your reading?

Mr. DURAND. Yes; I will read the form letter inclosed with the letter to the State Department.

The CHAIRMAN. Very well; then we will have the whole matter before us.

Mr. DURAND. This is the form letter which was inclosed in the letter to the Chief of the Diplomatic Bureau of the State Department, as it is given by Senator Sherman.

It is dated September 26, 1918, and reads:

MEAT-PACKING REPORT.

The PRESIDENT,
Switzerland.

SIR: There is inclosed herewith a copy of the summary of the report of the Federal Trade Commission on the meat industry, which was recently released for publication by President Wilson, and which may be of interest to your Government. Two copies have also been sent direct to the legation of your country in Washington.

By direction of the commission and with expressions of its highest esteem.

Yours, very truly,

FEDERAL TRADE COMMISSION.

Mr. KINCHELOE. Is the letter contained in the summary of the Federal Trade Commission the thing you were objecting to last night?

Mr. LIGHTFOOT. I did not get your question.

Mr. KINCHELOE. There is nothing in the letter there. The summary of the Federal Trade Commission, is that the one you talked about which prejudiced your foreign trade?

Mr. LIGHTFOOT. Yes; I want to call your attention to the fact that the summary of the Federal Trade Commission, before these volumes were out, six or seven volumes, published a summary of what was to appear more at length in these other volumes. This summary was issued in June.

Mr. DURAND. July 3, 1918, was the date, but it was not released for publication until about August 8, I think. It was August 8.

Mr. LIGHTFOOT. At that time all of these six or seven large volumes had not been published, but the published summary contained 40 or 50 or more pages; I do not remember how many. In this summary they gave an outline of what was to appear when these other volumes and the letter of transmission to the President, as well as this summary charged that the five packers had created a monopoly.

Mr. KINCHELOE. What I am getting at is if it was the summary rather than the letter from the State Department that militated against you?

Mr. LIGHTFOOT. No; you misunderstood me. I said this summary of the Federal Trade Commission contained what we considered damaging statements in relation to these packers, and contained gratuitous statements with reference to our foreign trade, and they stated that the monopoly was going to involve, unless controlled in this country—involve this country in international complications of some kind. And all those damaging statements, the Federal Trade Commission appear to have prepared voluntarily, because there is nothing in the correspondence to show, or in letters that they list, any request from the President of Switzerland, or the Queen of Holland, or the presidents of the South American republics, for this summary. And you will notice this document is headed, or dated, the 26th of September, a little more than a month after the time it was released for publication.

Now, our contention was that all of these circumstances showed that the Federal Trade Commission had voluntarily sent the summary of their report to the heads of these different governments.

In order that it might go through proper channels to the heads of the governments named, they addressed a letter to the Secretary of State, that letter which Mr. Durand just read, requesting the Secretary of State to transmit the summaries to these different heads of the different governments, and inclosing a form letter to be used by the Secretary of State in transmitting it into——

Mr. DURAND (interposing). May I say right there, I think that form letter probably was not a form letter to be signed by the Secretary of State. I assume the idea was that the letter should be signed "Federal Trade Commission," and that it was sent to the State Department simply that it might be transmitted through the State Department mail pouches, and the suggestion was made in the letter that the "material is to be used as your judgment may direct."

Possibly this was not a correct form letter, and they might wish to amend the form letter. I think the idea was that the form letter was to be signed by the Federal Trade Commission rather than by the State Department.

Mr. LIGHTFOOT. There is nothing in the correspondence itself to disclose that. You are left to draw your own conclusions. In the beginning of this——

Mr. DURAND (interposing). I am just stating that.

Mr. LIGHTFOOT. It was left to the Secretary of State. There is nothing suggested about who was to sign it; and I suppose he sent it through diplomatic channels as was suggested.

Mr. VOIGT. That is not so, for the reason that the form letter which is read is signed by the Federal Trade Commission.

Mr. LIGHTFOOT. It is not signed at all.

Mr. DURAND. Yes; the form letter is.

Mr. VEEDER. The form letter in the copy here is. Apparently they intended to send it to these governments, but did not intend to ask the State Department to sign it, but simply suggested the form in which it should go.

Mr. KINCHELOE. Let me ask you——

Mr. LIGHTFOOT (interposing). May I make this statement: I had not read these things for some time. I want to correct my statement or the inference that it was intended that the Secretary of State sign it.

Mr. KINCHELOE. I got the impreesion from your statement last night that it was the letter from the State Department to those foreign governments that stated these things, and because of the fact that it being signed by the State Department gave it official status. Now I understand that the only thing that went over there probably was damaging—I am not saying that—but that it was only excerpts from the Federal Trade Commission's report, and not a letter from the State Department.

Mr. LIGHTFOOT. Probably you are correct, in view of my failure to recollect how it was signed. I have not read it for a long time, and this thing came up in a minute. I was speaking from memory. I will say this: That to the extent that you got the impression, or the record shows that we were prejudiced by any letter of the Secretary of State reaching these governments——

Mr. KINCHELOE (interposing). It mpressed me very much, because any letters with the signature of the Secretary of State reflects very much the influence of this Government.

Mr. LIGHTFOOT. Yes; but I will add this, which is as vital as though it was signed by the Secretary of State: The Federal Trade Commission, being a governmental agency, the possibility that the letter was signed by it, it would not have so——

Mr. KINCHELOE (interposing). I do not think that one foreigner in a thousand knows anything about the Federal Trade Commission.

Mr. LIGHTFOOT. Foreign governments know about it now.

Mr. VEEDER. This was sent out by the Federal Trade Commission.

The very language of it here—it says in this form letter to be sent out:

SIR: There is inclosed herewith a copy of the summary of the report of the Federal Trade Commission on the meat industry, which was recently released for publication by President Wilson, and which may be of interest to your Government.

Mr. DURAND. May I explain that matter a moment?

Mr. TEN EYCK. Let me interpose one question: Last night the statement was made that this pamphlet was picked up in the——

Mr. LIGHTFOOT (interposing). In the Department of Agriculture of Greece.

Mr. TEN EYCK. In the Department of Agriculture of Greece. Undoubtedly it was damaging, but the gentleman himself, Mr. Lightfoot, remarked that he did not see a letter accompanying it, and therefore he did not know whether it was sent out by the Secretary of State or the Trade Commission or anyone else; that it was merely the pamphlet that he saw. I am not taking the position that it was not sent out.

Mr. KINCHELOE. I got the idea that it was picked up in Greece, this summary of the report of the Federal Trade Commission, accompanied by a letter of the Secretary of State.

Mr. LIGHTFOOT. No; if you read that, you will find I did not make that statement.

Mr. DURAND. Mr. Chairman, may I make a statement in that connection? This will, I think, clear up that letter.

Mr. KINCHELOE. What I am talking about is what I think Mr. Lightfoot said last night.

Mr. TEN EYCK. I would like to have Mr. Lightfoot answer that question, or if my assertion is correct.

Mr. LIGHTFOOT. Let me state it correctly. No one is interested in having here a misconception. It seems we are making a big point about who the letter was signed by. I don't think it is material. The point I was trying to make was that the report got over there voluntarily through the action of the Federal Trade Commission, without request, apparently, for the documents, from the presidents and kings and queens of those countries. And it is a fact that it was transmitted by the State Department, the diplomatic channel, directly to the heads of these governments. It was more certain to bring it to the attention of the persons to whom it was addressed. The further fact that the form letter carried the inference that it was being transmitted at the request of the President would prove damaging.

Mr. TEN EYCK. Did you find a copy of this letter, or do you know that there was a copy of this letter sent?

Mr. LIGHTFOOT. I have no knowledge whether any letter was sent or not, but I do know that a representative of one of the largest packers happened to visit the department of agriculture of Greece

a short time after that and upon making himself known, the official said, "Yes, I know who you are; I have a report telling me who you are."

Mr. KINCHELOE. Right there, if I got the wrong impression, I want to be corrected. You repeated that last night, and I understood you to say it was not only excerpts of the Federal Trade Commission's report, but I understood you to say in order to add color to the authenticity, that it was accompanied by a letter signed by the State Department of the United States of America.

Mr. LIGHTFOOT. Well, I had reference to this—I do not think I used the words you used. I meant that the form letter—if I said accompanied by the letter, I assumed that the Secretary of State used the letter, because it requested to be used, and if the Secretary of State transmitted the document, although it was optional what part of the form letter they used, I assumed it accompanied the document when transmitted.

Mr. KINCHELOE. From the State Department?

Mr. LIGHTFOOT. Yes; they would not have put the report in an envelope without some letter and sent it there.

Mr. TEN EYCK. Did you ever——

Mr. LIGHTFOOT (interposing). I am trying to answer his point. If the letter with the summary was transmitted to the President of Switzerland, say, the inference that I draw—that it was being transmitted at the suggestion of the President—would have been a very important matter which would probably have caused the President of Switzerland to have looked at it and read it personally. In other words, his secretary would likely have placed it in his hands.

Mr. KINCHELOE. Excuse me, I did not know the word "President" was in it at all.;;

Mr. LIGHTFOOT. Yes, sir.

Mr. KINCHELOE. If this was transmitted in the form letter by the Federal Trade Commission, not one foreigner in a thousand would know the Federal Trade Commission, but if it was transmitted from the President, or if it went through the State Department, they would know it.

Mr. LIGHTFOOT. If I said that, it was a misapprehension.

Mr. THOMPSON. The very fact, Mr. Lightfoot, that it was transmitted through the agency of the State Department would give it credit with the foreign governments.

Mr. LIGHTFOOT. That was my impression.

Mr. THOMPSON. Would give it a kind of official standing?

Mr. LIGHTFOOT. Yes.

Mr. CHARLES A. LYMAN. It seems to me, Mr. Chairman, the important thing here is whether the summary of the Federal Trade Commission is truthful or not. Now, has that been discussed here this afternoon?

Mr. CLARKE. I would like to know whether you are acting as chairman of this meeting or the gentleman.

The CHAIRMAN. Go ahead.

Mr. DURAND. In reference to the matters raised by Mr. Lightfoot and Mr. Veeder, I would like to say that this list of countries to which the Secretary of State was asked to transmit the report does not include Greece; Greece is not in the list of the countries here.

I think it is fair to assume that the report could have gotten to Greece in many other ways than through this letter. I would like, further, to say that it is my clear impression from this letter here that no letter signed by the Secretary of State accompanied any reports that were sent out. I have no record, of course, that any reports were sent out. The State Department was requested to, and was furnished the form letter to be signed by the Federal Trade Commission, so I would say that the State Department did not sign any letter.

Mr. KINCHELOE. Are you a member of the Federal Trade Commission?

Mr. DURAND. I am not; I am an employee.

Mr. KINCHELOE. You did not conduct any of these hearings?

Mr. DURAND. Against the packers?

Mr. KINCHELOE. Against the packers?

Mr. DURAND. No, sir.

Mr. KINCHELOE. You are not a member at all?

Mr. DURAND. I am an employee.

Mr. TEN EYCK. Isn't it the duty and the privilege of the Federal Trade Commission to send pamphlets broadcast throughout the country and to foreign countries or governments that will promote trade in this country—is that not one of their duties?

Mr. DURAND. They are given the duty under the law to publish such parts of the information they get as they deem in the public interest or such reports as they make, and send them out.

Mr. TEN EYCK. To promote trade?

Mr. DURAND. That is not stated in the law. They are simply given discretion to make public the information that they desire to report.

Mr. TEN EYCK. Not answering for the commission itself, but do you think that this document would promote trade or help the farmers or the packers or anyone else in this country—an article of this kind—if placed in the hands of the officials of other governments?

Mr. DURAND. I don't think that it would injure the general trade of this country.

Mr. TEN EYCK. I asked you if it would promote it—business in this country.

Mr. DURAND. I don't see that it would have any effect on it at all.

Mr. TEN EYCK. In other words, you admit that your reports do not amount to anything?

Mr. DURAND. The purpose of the Federal Trade Commission, as set forth in its organic act, does not include, as I recall, a requirement or a statement of a purpose to promote trade. As I understand it, that is the purpose of the Department of Commerce and the Department of Agriculture. But the Federal Trade Commission is a body for the regulation of trade, in a way; that is, acting as sort of a policeman to watch the methods of unfair competition, to investigate industries and to make report.

Mr. TEN EYCK. And to protect other nations by undue discussions of our manufactures?

Mr. DURAND. We simply make public facts, whatever they are.

Mr. TEN EYCK. Do you send to foreign countries all of your publications?

Mr. DURAND. All of our publications, as I understand, go to the foreign countries through a regular convention——

Mr. TEN EYCK (interposing). Is it your policy to send out your reports as you sent out this report?

Mr. DURAND. No; I would not say that is a policy. I would like to say that the sending out of reports at the commission is a routine matter. It is not a matter that the commissioners give attention to personally. It is handled by our Division of Publications.

Mr. TEN EYCK. The reports sent out in a routine way would go through the regular channels established for that purpose. Now, this report went through a different channel?

Mr. DURAND. May I continue? I was explaining, that on occasions there are reports sent out voluntarily by the commission. When a man who has had charge of an investigation reaches a period when the report is about to be issued, he is very likely to look over the mailing list and say, "Here are people that gave us information; people that are very much concerned with this; and we ought to send a copy of the report as a matter of courtesy to them," and a few reports are sent out that way; not many. Ordinarily the mailing list is the mailing list of responses to requests for the reports plus the regular routine distribution, part of which is the distribution to the foreign countries by this convention through the Smithsonian Institute.

Mr. TEN EYCK. Do you receive reports from other countries?

Mr. DURAND. We receive many reports from other countries.

Mr. TEN EYCK. Have you ever received a report saying they had monopolies of the things they produce and consume?

Mr. DURAND. I could not answer that; we receive hundreds of reports——

Mr. VOIGT (interposing). Isn't it a fact that these copies were sent to the heads of these Governments through the Department of State in order to save postage?

Mr. DURAND. As I recall that matter—that is very dim in my recollection, but as I recall there were a number of requests received by us at the commission for copies of this report before it was ready, from foreign countries, and that when we were about to send out the report and I knew that it was to be issued and sent, that I took it up with the head of the Division of Publications and suggested that we had better send out these reports. It was, I think, my knowledge that we had received a number of requests for these reports; that there was a desire for information so far as the packers were concerned: and that we had received information from other countries. Great Britain had investigated the packers, and we had used their reports. Argentina had investigated the packers, and we had made a study of their reports. Australia had done the same thing. The Division of Publications man, I remember, said he did not know what form to use. I think I suggested that we draft a little form and send it to the State Department, and if they did not like it they could change it. That is all I remember. I do not think any of the commissioners passed on that question at all.

Mr. TEN EYCK. You don't think that is damaging at all to our export trade?

Mr. DURAND. I do not regard the truth as damaging. We simply tried to set forth the facts there.

Mr. KINCHELOE. How do you know anything about the truth of this personally, when you were not a member of the Federal Trade Commission and were not present and did not know anything about the facts?

Mr. DURAND. Possibly I have misled you. I was an employee of the commission from the time when the investigation was made, and during part of the time was deputy examiner in charge of the investigation and during a part of the time was the examiner in charge of it. You asked me, as I understood, regarding the public hearings. I was not out in the field and did not conduct any of the public hearings. I attended only one of the hearings——

Mr. KINCHELOE. Do you know why a member of the Federal Trade Commission did not come here in response to a resolution we passed last night?

Mr. DURAND. The letter asked them to send a representative here.

Mr. KINCHELOE. I understood, Mr. Ten Eyck, your resolution was to send a member.

Mr. TEN EYCK. No; a representative to advise us.

There was one other request in that, and that was the reason why they sent it out.

Mr. DURAND. I have just given you the information. I suppose I and the head of the Division of Publications were the only men who had anything to do with it.

Mr. TEN EYCK. What was your reason?

Mr. DURAND. As I said, we had received various requests for this report, and we had secured from other countries the reports which their investigating bodies had previously made concerning the packers, and we were putting into our report the results of these foreign investigations, and it seemed to be a somewhat natural thing. I certainly did not proceed with any purpose or anything in my mind to injure the foreign trade of the packers.

Mr. TEN EYCK. In other words, it was the way you went about it; now you say you sent them out on account of the requests you had received?

Mr. DURAND. I had received some requests.

Mr. CLARKE. How did these requests come for this report?

Mr. DURAND. On account of the publicity that attended the public hearings held, beginning December, 1917.

Mr. CLARKE. Could you furnish this committee with any copies of requests prior to the date of this letter?

Mr. DURAND. Yes, sir.

Mr. MCLAUGHLIN of Nebraska. Will you answer a little question? You can answer yes or no: A great deal has been said about the sending out of this pamphlet, and there has been a good deal of censure, either real or implied. I ask you if it is not a fact that every department of this Government, and every other, sends, as a matter of courtesy, to every Government all the bulletins and have done it from time immemorial, and there is nothing strange about it at all; isn't that a fact?

Mr. TEN EYCK. Not so much the sending, but it was the reason for it, and to get into the record the reason why it was sent out. But there was an assertion made here last night that the report was sent out by the Secretary of State with a letter signed by him with the President's name in one of the other letters, connecting it ud

directly with the Government, and we have found now that they went out through an unusual channel for reports of this character; not through the channels that you are talking about, but this is an unusual channel, and was certainly an unusual way to take to send this particular report out. Now, I want every man in the United States, if this report is true, to have this report, but I do not see why we should take an unusual way to inform consumers on the outside in other or foreign countries about some differences we may have with our producers, manufacturers, and corporations.

Mr. McLAUGHLIN of Nebraska. I think you will find out on investigation that it is not an unusual way of sending them out.

Mr. DURAND. May I answer the question whether we had any requests?

Mr. CLARKE. Yes.

Mr. DURAND. On page 37, of the hearings in the Senate Committee on Agriculture and Forestry, on S. 2199 and S. 2202, part 1—this is the set of hearings entitled "Stimulation of Live Stock Products"—on the Kenyon and Kendrick bills. On page 37, of part 1, you have this statement by Mr. Colver in his testimony: That New Zealand officials and general public were thinking on this subject—that is, on the subject of the meat packers—as early as December 6, 1917, and before the Federal Trade Commission had written any summary, or could have sent any summary out or given out anything on this subject. It was before the date, even, I think, of the first hearing by Mr. Heney, which was later in December than December 6; certainly no news had reached New Zealand at that date.

Now, Consul General Alfred A. Winslow, the American consul general at Auckland, New Zealand——

Mr. LIGHTFOOT (interposing). May I ask a question: At the time and just before the date referred to there, which you just read, the Federal Trade Commission had been having very sensational hearings, the Heney hearings, and the newspapers were full of it.

Mr. DURAND. Those were after the date of December 6.

Mr. LIGHTFOOT. After that?

Mr. DURAND. Yes, sir.

Mr. LIGHTFOOT. Had had no public hearings before December 6?

Mr. DURAND. I think not. The hearings, as I recall——

Mr. LIGHTFOOT (interposing). I am not certain of it.

Mr. DURAND. The hearings, as I recall, were later in December. The first Heney hearing was December 20, 1917.

Let me read this. There is a little question here, and this will clear it up. Consul General Alfred A. Winslow, at Auckland, New Zealand, wrote, under date of December 6, 1917, a report which he transmitted to the State Department, and which the State Department transferred to the Federal Trade Commission, which is customary. The heading is: "New Zealand meat industry." And then he says as follows (Senate Committee on Agriculture, hearings on Stimulation of Live Stock Products, pt. 1, p. 37):

I have the honor to report that the meat producers of New Zealand are quite seriously disturbed because of what they fear the American Meat Trust, as they call it, may have over the future export of fresh meat from this country.

It is being discussed at meetings of farmers' cooperative associations, by the freezing companies, and even in Parliament, as may be seen from the inclosed clippings

taken from the Auckland Star of October 30 and November 22 and New Zealand Herald of October 25, leading dailies of this city.

In this connection it might be well to understand that Armour & Co. have an agent at Christchurch to represent their interests in New Zealand, who has been somewhat active along his line, but in conference with him sometime since when he called at this consulate general he denied that his company had any idea of attempting to dominate the meat business of this part of the world. He stated that they were here simply to look after their interests in general and were prepared to buy stock that seemed to appeal to the trade in general.

However, the people of New Zealand are very jealous of their interests, and very rightly so, for they have an exceedingly bright future if the grazing industry is allowed to have its way, and not be dominated by any faction or cooperation associations without any apparent head or national organization that is attempting to control meat prices, so that competition is open and above board, and good prices prevail, and did so before the war.

It is thought these matters might be of interest to the departments, and should they be of further interest I shall be glad to follow up this report, if I am so informed.

I have the honor to be, sir, your obedient servant,

ALFRED A. WINSLOW,
American Consul General.

Then following are the articles he inclosed with this report, which cover four or five pages of the Senate committee's record at this point.

Now, may I say further, to answer that question more specifically, there is listed in the reply of the commission to the Sherman resolution the requests from New Zealand for copies of the report.

Mr. TEN EYCK. So far as I am concerned, that is sufficient. I want to make a statement here.

Mr. DURAND. I want to say, in general, that before the date of our first hearings—well, I might say further, that early in 1917 the New Zealand Government appointed a committee to investigate the packers and packing situation in New Zealand; that on October 25, 1917, that committee made a report, and that report included one finding regarding the American meat packers, expressing great fear of domination that might occur in that country, and the report recommended that licenses be required of all freezing companies or meat-exporting companies. That, you see, was prior to our hearings.

Consul General Winslow, as I recall it, transmitted to the State Department a request from the head of the Department of Agriculture of New Zealand requesting that copies of the Federal Trade Commission's report on the meat investigation should be mailed to him; three copies were requested. And that was, evidently, in response to news that had come to him of the Heney hearings. It was not until many months afterwards that the report was actually issued and mailed.

Mr. TEN EYCK. I think you have made this very clear, and I wish to make this statement: I have no brief for the packers, no animosity against the Federal Trade Commission, but I have an interest in the producing part of this country, and anything that is being done to hurt the producers of this country through any medium of the Government, why, I want to know about it, and, if possible, correct it.

Mr. DURAND. May I say, in regard to the matter Mr. Veeder mentioned, which should be cleared up: He mentioned this form letter as containing a phrase about the President of the United States; as if the report was released by the President of the United States. That was in that letter, and here is how it happened to be in that form letter. The report, if you recall, is dated July 3, 1918. That was the date on which it was sent to the President. The President held

it until some time in August—August 8—and, consequently, after the report was finally released by the President, any letters accompanying copies of the report sent out, said that the report was released by the President on August 8, to explain why they had not got it early in July since it was dated July 3. That is why we said in this same form letter "recently released by the President."

Mr. TEN EYCK. It is a matter of fact, the President does not read these reports?

Mr. DURAND. As a matter of fact, we think that he did read this. What you say may be ordinarily true, but we think that he did read this. I have heard that he did. He kept it from July 3 to the 8th of August.

Mr. VOIGT. Let me ask you: If you had sent these reports to the foreign Governments by ordinary mail, you would have had to pay postage on them, would you not?

Mr. DURAND. I do not know, Congressman, about that detail, whether we would have to or not. We frequently send reports to foreign countries, or letters that we want to send to foreign countries in that way, i. e., through the State Department mail pouches, as a safer and more convenient way.

Mr. VOIGT. I understand, but if you had not adopted that method you would have had to pay postage, and by sending it through the department, it goes under the frank of the Secretary.

Mr. DURAND. I am not informed about that.

Mr. VOIGT. Let me ask you: Did you sometimes send other matter, other publications, as this was sent?

Mr. DURAND. Oh, yes, frequently; particularly during the war, that was done in the departments generally, because it was thought the safest way to send documents during the war.

Mr. VOIGT. Then this was sent out as routine, as other publications are sent out?

Mr. DURAND. Yes; except it was not regular to send out reports to so many countries, except by exchange, and they are sent through the Smithsonian Institute. It was routine matter in the sense that it was not commission policy at all.

Mr. VOIGT. Then no member of the commission ordered those copies to be sent out?

Mr. DURAND. They have assured me they did not know anything about this letter—never saw it.

Mr. VEEDER. May I make a brief statement on this? In substance, of course, they had no knowledge of the facts, Mr. Durand has just stated. What occurred and what we first thought was that we were being handicapped and legislated against in these foreign countries. I wish to read into the record a letter which was addressed to Armour & Co. of Australia by the office of the minister of agriculture, which revoked their license to engage in the export trade from New Zealand. It revoked their license and it says it is based on the report of the Federal Trade Commission. This letter is quoted by Senator Sherman in the Senate, and will be found on page 2228 of the Congressional Record of February 27, 1921. It is dated February 24, 1919. This is the same matter that was referred to yesterday or last night. Armour & Co. had a plant in New Zealand and was engaged in the slaughtering of live stock and exporting meat. Under the statutes of New Zealand it is necessary for an export

company to take out a license. That license is renewable each year. On December 19, 1918, Armour & Co. applied for their renewal license. They had heretofore been operating, and had from year to year had their license. The reply they received is this:

OFFICE OF MINISTER OF AGRICULTURE,
Wellington, February 24, 1919.

Messrs. ARMOUR & CO. OF AUSTRALASIA (LTD.), *Christchurch.*

DEAR SIRS: The director general of the department has submitted to me your letter of the 17th, in which you formally apply for the issue to you of a meat-export license under the slaughtering and inspection amendment act of 1918. I regret to inform you that I can not grant this license. This decision has been arrived at after the perusal of the official summary of the report of the Federal Trade Commission on the meat-packing industry appointed by the United States Government. With reference to the canned meat referred to in your letter of the 8th instant as having been already purchased, this meat may be shipped by you, and no action will be taken against you in respect of its shipment.

Yours, faithfully,

W. D. S. MACDONALD.

The license has never since been granted.

Now, the Board of Trade of Great Britain and Parliament have at different times appointed committees to investigate combinations in restraint of trade, and these committees have reported at various times; at least three of these reports make reference to this matter, and I will read extracts of these reports which are given here in full. There are also many newspaper clippings given here, taken from the papers commenting on the packing industry.

Mr. DURAND. Do you think, Mr. Veeder, that the commission is responsible for the fact that England is interested in its report?

Mr. VEEDER. Maybe the report got to England otherwise. I am pointing out that this report has done the American meat packer, and back of him, the American producer, incalculable damage. We knew of the report before, and knew of these letters. But it was not for some time after the license was revoked that we learned of these matters asking that the report be transmitted by the State Department. We put the two together. From this we assumed, and reasonably so, I think, that there was some connection. I am pointing out, however, that it did do incalculable damage. If the report was false, it certainly was a damage that never can be corrected. If it was true, then, of course, there is a moral question involved that I will not discuss.

Mr. DURAND. Has there not been a considerable falling off of trade in many lines of industry?

Mr. VEEDER. I would like to answer that question, but first I would like to read the recommendations of a subcommittee of the central committee in Great Britain, and then ask what effect that would have on the American producer and on the meat packer. This report is the report of a subcommittee appointed by the central committee, or standing committee on trusts, and adopted by the standing committee. The names of the committee are given as it is printed here.

Mr. KINCHELOE. The only point I am making as a member of the committee, so far as I am concerned, there have been many statements about the Federal Trade Commission being ex parte, and excerpts were taken that were most damaging to the packer. I think in fairness to the commission a member of the commission who

conducted this examination ought to come here. I think if this resolution had gone from the Senate Committee on Agriculture they would all have been here. I think we, representing the people of the country, have as much right to have a member of the commission here as the Senate has. I think one who was present and helped to conduct this examination ought to be here. For instance, take the "Black Book" which Mr. Voigt mentioned. There have been a lot of insinuations. I think a member of the commission should be here. There are some questions I would like to ask from the people who were there and know about these facts about that. I am not satisfied, as a member of the committee, in closing this hearing until we have one of these gentlemen who helped to conduct this examination; that helped to make this record, that we might know about it.

The CHAIRMAN. Let me say what the policy has been. So far as I know, no invitation has been sent out to anybody to appear before the committee. We have notified them upon request; if they file a request here with the clerk of the committee to be notified if hearings come up, we have notified them, but we seldom invite or suggest to anybody to come except, of course, the secretary. The doors are open to everybody, and I had no knowledge of who was going to come here to testify, but various people have been notified of the hearings. As you know, the resolution was passed last night, and I notified the representative of the Federal Trade Commission of the resolution.

Mr. KINCHELOE. If the Senate passes a resolution, or asks for any information, they not only have a member of the commission go there, but send all the information asked for.

Mr. VEEDER. I have two short extracts here which I would like to put in in connection with this discussion. This report I have referred to——

Mr. VOIGT (interposing). Before we proceed, I feel that the commission ought to have a member here to explain some of the charges made here by the packers against the fairness of the commission, and as to the correctness of its report. I do not believe we ought to close this hearing without giving the gentleman on the stand, or some member of the commission, a full opportunity to be heard.

The CHAIRMAN. The policy of the commission is not to volunteer testimony; is that correct?

Mr. DURAND. That is correct. It does not volunteer information or express opinions to the committee. It is always desirous of being helpful to the committee.

Mr. KINCHELOE. I don't understand why a member of the commission did not come here in response to the resolution passed by this committee.

Mr. DURAND. May I say, the only member of the commission who was on the commission at the time the invesigationi was made was Mr. Murdock? All the others have come on the commission since then.

Mr. THOMPSON. I would like to hear Mr. Murdock on this, and I would like to have an invitation extended to him to come here to-morrow morning.

Mr. TEN EYCK. Can't we finish with these two gentlemen? I think we can finish with them in 10 minutes.

Mr. THOMPSON. Why not adjourn now? It is getting late, and let us continue to-morrow morning where we left off, and issue an invitation to Mr. Murdock to come here?

The CHAIRMAN. I understood Mr. Durand had finished.

Mr. THOMPSON. Well, he can go on, but I can not stay any longer.

Mr. DURAND. I can be interrupted at this time, Mr. Chariman. It seems to me, Mr. Chairman, many statements have been made, but I think the same things have been covered in previous testimony, both for and against.

I would say one thing, for example: Mr Nash testified that the Federal Trade Commission did not come to interview him or ask him about the competitive conditions in the packing industry. I have here a report of our agent of some 15 or 20 pages, covering his interview with Mr. Nash. We have schedules here furnished by his company. I think he must have forgotten that our agent did interview him and that a report was made.

Mr. VEEDER. I am very anxious to get this in while we are discussing exports.

The CHAIRMAN. You may proceed.

Mr. VEEDER. This interim report is made by a subcommittee to the chairman of the standing committee on trusts. The terms of reference are: "To investigate the question of trusts, combines, and agreements affecting prices in connection with the meat trade (including hog products), so far as they affect the British consumer."

This report consists of a number of sections. I will read one, section 5, a part of it:

The main field of operation of the companies is in the United States. The Federal Trade Commission, in its report on the meat-packing industry, gave an "unqualified affirmative" to the question whether combinations, etc., "out of harmony with the law and the public interest" existed in that industry. The companies themselves admitted that in the past they have worked together in "pools" and other forms of combination. They now claim that they are quite independent of each other, but, as is pointed out in paragraph 16 of the report of the meat supplies committee, formal independence is quite consistent with a simple tacit understanding to respect each other's position.

It goes on at great length here in the Record.

I want to read the recommendations of the committee in this same report, on page 2242 of the Congressional Record:

We recommend, therefore:

1. That it should be the declared policy of His Majesty's Government to prevent the percentage of the beef trade which is at present in foreign hands from increasing, to the loss of producers at home and in the Dominions and of British importing companies.

2. That in any legislation which may be contemplated for the purpose of dealing with trusts and combinations there should be provisions for dealing with the form of cooperation which we believe to exist among the American meat companies and for the investigation of complaints against these companies, and that the utmost publicity be given to their methods of business.

3. That steps be taken to insure that foreign meat companies should be subject to the same basis of taxation in this country as the British meat companies.

Now, let me explain. The British meat companies are subject to a tax on the entire income, whether earned in the Argentine, or wherever earned. The American meat companies, being foreign-owned, are subject to a tax on the business done there. The recommendation is that they be taxed not only on their business income, but on all the business done, whether from the Argentine, or wherever done, the same as the British business is taxed. [Continuing reading:]

4r That the Las Palmas meat works in Argentina should continue to be operated on behalf of His Majesty's Government so as to afford a means of watching the developments of cost and price movements.

In other words, there is a British operating company down there that is in particular competition with American companies and partially supported by American taxpayers. [Continuing reading:]

5r That the control of insulated shipping would afford one effective means of preventing British meat supplies from falling under the domination of particular interests, and that, accordingly, the Government should be equipped with such reserve powers, and should maintain such relations with the shipowners, as would prevent the diversion of meat supplies from the United Kingdom and the wholesale transfer of British insulated shipping to foreign ownership.

In other words, that British shipowners boycott American manufactured or American owned meats. [Continuing reading:]

6. That the governments of the various consuming and producing countries should discuss together the possibilities of making joint investigation into the world's meat situation with the object of taking such common action as may be required.

There is a great deal in here on that, and the documents are in here in full.

Mr. DURAND. Mr. Chairman, may I say as to that particular matter, that in the report of the Federal Trade Commission which Mr. Veeder feels is responsible for this thing and the coming out of the English recommendations, we cite here on pages 194 to 197 of Part I of the report, the findings, and recommendations, of the British Board of Trade committee that was appointed July 31, 1908, "to inquire how far and in what manner the general supply, distribution, and price of meat in the United Kingdom are controlled or affected by any combination of firms or companies."

And here is the report. It seems to me that that far back the British Government was considering the question and studying the conditions and making recommendations about what to do about it, and that was long before the Federal Trade Commission was ever created. It does not seem to me that the Federal Trade Commission should be blamed for what the English Government or the Australian Government or the Argentine Government is doing in these matters. It seems to me that the packers have themselves to look to in that matter.

Mr. CLARKE. Don't you think that the very fact that the Federal Trade Commission having this and having commenced to call it to the attention of the foreign governments would have a tendency to injure our business here?

Mr. DURAND. I do not understand that.

Mr. CLARKE. You say the agency of the Government had in its possession these facts which it did not necessarily give to these old countries, because it did injure business?

Mr. DURAND. I think the accounts of the report published by the Federal Trade Commission go abroad. We can not give information to our own people and prevent its going abroad.

Mr. CLARKE. You were accelerating it.

Mr. DURAND. I don't think there is any question about the information getting abroad.

Mr. CLARKE. The Federal Trade Commission, of course, did not realize how these reports were to be used, or they would not have allowed it to go out without giving more consideration to that, to the individuals.

Mr. VEEDER. In all these reports—this report was made after we got the Federal Trade Commission report. In that report they state

that on their investigation in England they find that the American companies are not illegally restraining trade in England; that they could not do so if they desired to; but they say that the American commission had so found, and they proceed to make that report on that strength. And whatever that report says, this later report gives them a clean bill of health.

Mr. DURAND. May I make one statement, and that will finish what I have to say?

The CHAIRMAN. Yes.

Mr. DURAND. I understood that Mr. Veeder testified regarding some Swift correspondence that was seized by an agent of the commission, and that some physical force was used in taking the documents from the office of Swift & Co., or was threatened. And as to that, all that I can say is that that matter was brought up before in the Senate hearings on "Government control of the meat-packing industry"; the hearings before the Senate Committee on Agriculture and Forestry, on S. 5305, part 2, and in that volume, in pages 1503 to 1506, is a full explanation of that circumstance, including a letter written the next day returning the documents and making, I should say, an apology for their having been taken in the first instance.

The CHAIRMAN. In that connection, let me say if the commission desire they may respond to that. I understand these hearings are not available, not even in the Senate.

Mr. DURAND. I am not sure of that.

The point turned on the mutilation of a document, and for that reason the agent was asked to get the original document as evidence of mutilation.

The CHAIRMAN. Do you desire that incorporated in your testimony?

Mr. DURAND. Yes; I would like it inserted, Mr. Chairman.

The CHAIRMAN. It may be so inserted.

(The matter referred to is as follows:)

Mr. VEEDER. In February, 1918, while the investigators were in the office of Swift & Co., the investigators took original papers, and informed Swift & Co.'s employees, when they protested against the taking of the original papers, that if they did not want them to take them they would have to knock them down. They were going to take the papers, anyway, and if they interfered, they would have to knock the investigators down to get the papers back. The law absolutely provides that the commission shall have the right to examine and to copy. There is no authority to take original papers, except through process of law, by the issuance of a subpœna duces tecum.

Swift & Co., on February 12, 1918, wired the commission in reference to the taking of these papers as follows:

CHICAGO, *February 12, 1918.*

FEDERAL TRADE COMMISSION,
Washington, D. C.

Your Special Agent Child took away from our office Monday night nine files or original papers over our protest. We have heretofore afforded your examiners the freest access to examine our files and have ourselves made such copies of the files as they desired to take with them.

The taking of original files will seriously interfere with the conduct of our business and is not authorized by law.

Under the circumstances we must refuse to permit your agents or examiners to remove the original files. We will, in accordance with the law, continue to give access to our files for personal examination and furnish copies as heretofore.

We ask that you instruct your agents and examiners to continue the investigation in accordance with the statutes.

Please reply.

SWIFT & CO.

At that point I would state that, although not required by law, Swift & Co. had been furnishing copies and the stenographic service necessary to make copies. Swift & Co. received the following reply from the secretary of the Federal Trade Commission on the same day:

WASHINGTON, D. C., *February 12, 1918.*

SWIFT & CO., *Chicago, Ill.*

Subject matter, your wire February 12, being handled for commission by its special counsel, Francis J. Heney, Morrison Hotel, Chicago. Wire referred to him.

BRACKEN,
Secretary Federal Trade Commission.

The same day, February 12, 1918, the papers were returned by Mr. Adams, together with this letter:

CHICAGO, ILL., *February 12, 1918.*

Mr. LOUIS SWIFT,
President Swift & Co., Stockyards, Chicago, Ill.

DEAR SIR: Through a fault of mine, in transmitting instructions to Mr. W. W. Childs, special agent of the Federal Trade Commission, he yesterday afternoon removed from the offices of your company several files on the subject of the Federal Trade Commission. Immediately, upon learning that there had been a misunderstanding and that Mr. Childs had removed those files from your office, he was instructed to return them to you intact and to hand you this letter.

The instructions were that Mr. Adams secure, if possible, some letters and memoranda, which he had found in your files, relating to the business of the Federal Trade Commission. He was particularly instructed to secure, if possible, the original mutilated letter which was written by one of the employees high in the counsels of the Federal Trade Commission. This letter was mutilated by having the signature cut from it.

I regret very much the fact that I made the mistake in transmitting the instructions to Mr. Childs. I am,

Very truly, yours,

A. B. ADAMS,
Examiner and Assistant in Directing Food Investigation.

Mr. HENEY. Was it an offense for Swift & Co. to mutilate a letter by cutting off the signature?

Mr. VEEDER. No; I think not.

Mr. HENEY. Under the Federal Trade Commission act?

Mr. VEEDER. No.

Mr. HENEY. Does it not expressly declare that it is an offense to mutilate any of the correspondence?

Mr. VEEDER. I do not know what the facts are about that. My recollection is that a full explanation was made of that letter.

Mr. HENEY. I am not asking about the facts. I say, does not the law provide——

Mr. VEEDER (interposing). I say I do not know.

Mr. HENEY. You do not know what the law is?

Mr. VEEDER. I do not know what the facts are.

Mr. HENEY. I am asking you if the law does not provide that it is an offense to mutilate any correspondence?

Mr. VEEDER. There is some provision of the law prohibiting the mutilation of files.

Mr. HENEY. And making it an offense?

Mr. VEEDER. I do not know whether Swift & Co. mutilated that letter. I say, I do not know what the facts are.

Mr. HENEY. And making it an offense to mutilate?

Mr. VEEDER. I do not recollect. I have had no occasion to look up that feature of the law.

Mr. HEALY. It has to be done for a dishonest purpose, of course.

Mr. HENEY. It does not say anything about a dishonest person.

Mr. VEEDER. The mere destruction or mutilation of a letter, if not for a dishonest purpose, probably would be illegal. It is a point that has never been decided.

Mr. HENEY. As it turned out, the purpose was perfectly plain, and it was that when the Federal Trade Commissioner's examiners looked at the letter, they could not see who wrote it. Is not that the fact?

Mr. VEEDER. I do not know what the facts were.

Senator NORRIS. I would like to inquire if the discovery was made as to who did write it?

Mr. HENEY. Yes; it turned out it was written by me to a gentleman who represents the woolgrowers, but who sent it to Mr. Swift?

Mr. HEALY. Maybe he mutilated it.

Mr. VEEDER. You mean the gentleman who sent it to Mr. Swift?

Mr. HEALY. Yes.

Mr. VEEDER. I do not know.

Mr. HENEY. At the time we were trying to get that particular mutilated letter, and I told Mr. Child if he got his hands on that mutilated letter, to hold on to it, because it was evidence of a crime.

Mr. VEEDER. You mean mutilation was the crime?

Mr. HENEY. Yes. It was mutilated. It was a criminal offense, apparently, by somebody on the inside of the Federal Trade Commission, and if there was any man on the inside of the Federal Trade Commission who was writing confidentially to Swift & Co., I intended to find out who did it, if possible.

Senator NORRIS. This letter was written by you, you say?

Mr. HENEY. Yes; it turned out to be written by me. It was written to Swift & Co., though, and it did not contain anything except a general statement of the situation, as to how the investigation was proceeding, but it showed such an intimate knowledge of how it was proceeding that it was sure that it did come from somebody on the inside. It was a certainty that it did come from somebody on the inside.

Senator NORRIS. Then, the man to whom it was sent sent it to Swift & Co.?

Mr. HENEY. Yes. I insisted on their going back and knowing whose signature was on that, and when they were told it was mine they came back with the joke on me.

Mr. VEEDER. And there was no prosecution started?

Mr. HENEY. No; and there was not any occasion for any. But if I had been writing that letter to Swift, Armour, Morris, or Cudahy, and doing it not as the man in charge of the investigation, but as a man in the Federal Trade Commission who had learned what was going on, and for the purpose of advising them so that they could make their preparations accordingly, a prosecution ought to have taken place.

Mr. VEEDER. Do you think that the man in charge of the investigation is subject to a different law from the investigator making it?

Mr. HENEY. No; I think that if the man in charge of the investigation is seeking something for the benefit of the parties being investigated, he is guilty of reprehensible conduct, and if there is any way of punishing him, ought to be punished.

Mr. VEEDER. I do not know what the letter was or what the facts were.

Senator NORRIS. I suppose the man who sent it to Swift & Co. had an idea that it would be of some benefit to Swift & Co. to know what was going on.

Mr. HENEY. They had a meeting of sheepmen and cattlemen here in Washington, and the wool growers' association was there; and it turned out that I had known this man years ago, and after he got away from here he wrote and asked me how the investigation was going along, and I wrote him in a general way, so that there was not anything in it that would have been of any benefit, particularly, to anybody.

But the statements showed a knowledge of what was going on that could not have been had by anybody except myself or somebody on the inside there, like Commissioner Davies or Mr. Robertson or any one of those closely connected with the investigation. And with the signature cut out, when the report was made to me of what was in the letter, and he did not have a copy of it—Mr. Child found it just at 12 o'clock Saturday, and he wanted to take a copy, but they said no, it was too late. It was when they did not have the office open Saturday afternoons. They said that he would have to wait until Monday, and when he came back and told about it and gave, to the best of his recollection, the substance of what was in the letter, then I became very much interested and was anxious to see that letter, and I wanted to see the original, if the signature had been cut off of it.

The CHAIRMAN. I think you have referred to these hearings a number of times?

Mr. DURAND. Yes, sir.

The CHAIRMAN. The hearings in the Senate?

Mr. DURAND. Yes, sir.

The CHAIRMAN. Are there other matters you would care to have inserted?

Mr. DURAND. There may be one or two that I might; not extended passages.

The CHAIRMAN. I think that should be done. The chairman has not even a copy.

Mr. LIGHTFOOT. One question of Mr. Durand: This whole matter, I think, grew out of the statements that were made last night that

the commission had sent voluntarily these reports to the heads of the various governments. You have explained that you had received requests from foreign countries for copies of that report. Of course, the Federal Trade Commission will send copies of available reports on request. You have stated you had such requests, and cited New Zealand. I will ask you if you have any recollection of having received any requests for copies of these summaries from the particular ones in the letter you have spoken of this afternoon; for instance, the President of Switzerland, and the King of Italy, and other monarchs; did you receive any requests from them for these copies to which you responded in sending them through the State Department?

Mr. DURAND. I assume not, from those particular gentlemen, but from these countries, I assume there were several requests. I think an examination of the answer to the Sherman resolution will disclose it; I think you will find it there.

Mr. LIGHTFOOT. In that list?

Mr. DURAND. You will find there that the British Embassy time after time would send down there for a dozen copies.

Mr. LIGHTFOOT. I know that is true, and was proper for you to have sent them copies on such request. But as I remember the list which you transmitted to the Senate did not contain any one of these that were included in your letter.

Mr. DURAND. May I say, Mr. Chairman, that this whole matter of the Sherman resolution, which is really what this discussion is about this afternoon, was covered by Senator Sherman in a long speech in the Senate, and was replied to by Senator Kenyon; he made a very short but I think a very effective reply, and I would like to cite the passage in the Congressional Record where Senator Kenyon's remarks appear.

Mr. CLARKE. Couldn't we insert in our record the requests without going into that?

The CHAIRMAN. It will be so ordered.

(The information referred to, comprising requests for copies of the meat packing report received from representatives of foreign countries prior to September 27, 1918, the date of the commission's letter requesting the State Department to forward copies to foreign Governments, was subsequently furnished by Mr. Durand and is here printed in full, as follows:)

Under date of April 26, 1918, Hon. Alfred A. Winslow, American consul general, Auckland, New Zealand, addressed a communication to the Secretary of State, in part as follows, a copy of which was on May 31, 1918, transmitted by the State Department to the Federal Trade Commission:

"I have the honor to advise that the Hon. W. D. S. MacDonald, minister of agriculture, industries, and commerce of New Zealand, has asked me to secure for him and the use of the New Zealand Government all the information possible relative to the investigation made by the United States Federal Trade Commission into the American Meat Trust; and I should very greatly appreciate it if I might be furnished with at least two or three copies of this information for the honorable minister, who indicated that he would like at least that many.

"In this connection I wish to explain that the operations of the American Meat Trust are of very great interest to New Zealand stock raisers, since they are very greatly alarmed over their actions in this part of the world, fearing that they propose to get control of the meat business in this Dominion. Armour & Co. already have an office at Christchurch, and have employed one of the most expert stockmen in this Dominion.

"This question is being discussed extensively in and out of Government circles, and I believe it will be wise to make it clear that the American Government is in nowise connected with or fostering the methods used by what is known as the American Meat Trust." (Quoted in Report on Meat Packing Industry, Part I, p. 35.)

The following letters which refer to Consul General Winslow's request of April 26, 1918, for copies of the report on the meat-packing industry were transmitted by the commission to the Senate on July 31, 1919; and it it is Mr. Durand's recollection that they show that, by oversight, the reports requested had not been mailed, and were again requested by Consul General Winslow's dispatch of October 22, 1918, to the State Department. (Listed from Cong. Record of July 31, 1919, p. 3414, col. 2.)

Letter July 9, 1918, from Federal Trade Commission to American consul general, Auckland, New Zealand.

Letter July 9, 1918, from Federal Trade Commission to chief clerk State Department, Washington.

Letter December 27, 1918, from Acting Secretary of State to Federal Trade Commission.

(Inclosures to foregoing letter being copy of dispatch No. 523, October 22, 1918, from Alfred E. Winslow, American consul general at Auckland, New Zealand; copy of letter October 18, 1918, from W. D. S. MacDonald, minister of agriculture and of industries and of commerce, Wellington, New Zealand, to A. A. Winslow, and copy of letter of July 9, 1918, from Federal Trade Commission to Alfred A. Winslow.)

Letter of January 3, 1919, from Federal Trade Commission to Hon. W. D. S. MacDonald.

Letter January 3, 1919, from Federal Trade Commission to Acting Secretary of State.

The following letters indicate the mailing of copies of the meat-packing report on written request, and the dulpicate franks not connected with letters indicate the mailing of copies of the report on telephoned request or request by messenger. (Listed from Cong. Record of July 31, 1919, p. 3415, col. 1.)

Duplicate frank, August 29, 1918, Switzerland Legation, 2013 Hillyer Place, Washington, D. C. Report on meat-packing industry.)

Duplicate frank, August 29, 1918, Italian Embassy, commercial delegate, 1400 New Hampshire Avenue, Washington, D. C. Report on meat-packing industry.

Duplicate frank, August 29, 1918, Department of Labor, Deputy Minister, Ottawa, Canada. Report on meat-packing industry.

Duplicate frank, August 29, 1918, Imperial Russian Embassy, for Hon. C. Medzikhovsky, 44 Whitehall Street, New York, N. Y. Report on meat-packing industry (3 copies).

Letter September 4, 1918, from Dr. O. D. Skelton, of royal commission to inquire into marketing of live stock and live-stock products, Kingston, Ontario, to Federal Trade Commission. (Cong. Record, July 31, 1919, p. 3414, col. 2.)

Letter, September 25, 1918, from Federal Trade Commission to O. D. Skelton.

(Duplicate franks, September 27, 1918, indicating mailing of meat-packing report to following:)

O. D. Skelton, Queens University, Kingston, Ontario.

W. A. Wilson, Cooperative Creameries (Ltd.), Regina, Saskatchewan.

Dr. J. A. Rutherford, Department of Natural Resources, Calgary, Alberta.

J. D. McGregor, The Royal Alexandra, Winnipeg, Manitoba.

Hon. W. C. Sutherland, Galt, Ontario.

Letter (without date) from Henry W. Macrosty, Board of Trade, London, to Federal Trade Commission. (Cong. Record, July 31, 1919, p. 3414, col. 2.)

Letter, September 16, 1918, (presumably in reply to foregoing) from Federal Trade Commission to Board of Trade, London.

(Duplicate frank, Sept. 18, 1918, indicating mailing of report on meat-packing and report on cooperation in export trade, vols. 1 and 2, to Board of Trade, Gwydyr House, Whitehall, London, England.)

(Mr. Durand also submitted the following statement as bearing on the question under discussion:)

The following letters, among those sent by the Federal Trade Commission to the Senate in response to the Sherman resolution, show that the Federal Trade Commission had secured, through the courtesy of foreign governments or through the American Consular Service, information used, or for use, in its meat reports regarding the activities of the American packers abroad, thus giving a reason for transmitting the report when issued:

Letter, April 2, 1917, from State Department to Federal Trade Commission, transmitting report of Consul General R. P. Skinner, of London, on subject of British meat supplies, and letter of Federal Trade Commission, April 6, 1917, acknowledging receipt.

Letter, September 10, 1917, from Federal Trade Commission to State Department, requesting it to secure from the British Government data for use of the commission in its investigation of the meat industry, acknowledgment by the Department of State, and transmittal by it (by letter of January 8, 1918) of report of Consul General Robert P. Skinner, of London, furnishing the available information, with correspondence referring thereto.

(The consul general's report covers the organization of the principal British subsidiaries of a number of American packers, and data as to their representatives from the prize proceedings with respect to meat cargoes seized by the British Government; also data regarding the governmental regulation of food under the defense of the realm act; also gives agencies or representatives of smaller American packers in the United Kingdom.)

Letters from Department of State, January 15, 1918, and May 6, 1918, transmitting reports by Consul General Winslow, of Auckland, and Consul General Skinner of London, on American meat corporations in New Zealand, with commission's acknowledgment of the same. (Foregoing letters listed from Congressional Record, July 31, 1919, p. 3418, column 1.)

It may also be noted in this connection that on September 11, 1918, shortly before copies of the meat-packing report were sent to the Secretary of State for transmission to the Government of Great Britain, the Federal Trade Commission was making an unusual effort to secure special information through the courtesy of the British Government. This is shown by the following letters, among those sent to the Senate in response to the Sherman resolution (Cong. Record, July 31, 1919, p. 3417, col. 2):

Letter September 11, 1918, from Federal Trade Commission to Secretary of State requesting transmission of inclosed cable to British Ministry of Food, seeking information on British governmental control of the meat business. (See also personal statement of Commissioner Colver and of Dr. J. G. Ohsol in the reply of the commission to the Sherman resolution Cong. Record of July 31, 1919, pp. 3411 and 3413.)

Other information received in previous years from foreign governmental agencies or from our consular agents, presumably with the aid of foreign governmental agencies, is indicated as follows (Cong. Record, July 31, 1919, p. 3414, col. 1):

Four letters, February 1, March 13, March 24, and May 12, 1915, between Joseph E. Davis, commissioner of corporations and subsequently chairman of Federal Trade Commission, and the Governor General of Australia, or his secretary, concerning a request by the commissioner of corporations for a copy of the report of an investigation of the beef industry by the commonwealth royal commission on the meat export trade of Australia, and the supplying of this document.

Letters of November 8, 1915, and letter of November 20, 1915, between the chairman of the Federal Trade Commission and the comptroller general of customs, London, requesting a copy of the report by the veterinary inspector for the commonwealth to the comptroller general of customs on the Beef Trust.

Letters of July 13, 1917, July 16, 1917, September 5, 1917, and September 22, 1917, between the secretary of the Federal Trade Commission and the British Board of Trade concerning an arrangement for exchange of information. (The exchange contemplated was general in character, not referring particularly to the meat industry.)

1915. Notes from Commercial Attaché A. H. Baldwin, London, on "Informal Combination in South American Meat Trade." (Published in the Federal Trade Commission's report on "Cooperation in American Export Trade," pt. 2, pp. 92–94.)

1915. Special report of Vice Consul in Charge John S. Calvert, Buenos Aires, Argentina, on the meat industry. (Published in the Federal Trade Commission's report on "Cooperation in American Export Trade," pt. 2, pp. 178, 179.) (Last two items cited from Cong. Record, July 31, 1919, p. 3418, end of col. 2.)

That the policy of the commission was not to discourage exports of foodstuffs is indicated by a letter March 27, 1917, from the Federal Trade Commission to the Department of State, returning to that department a large number of communications advocating an embargo on the exportation of foodstuffs from the United States, which communications the State Department had transmitted to the Federal Trade Commission on March 16 and March 19, 1917, for its examination and report. These letters are among those sent to the Senate in response to the Sherman resolution. (Cong. Record, July 31, 1919, p. 3418, col. 1.)

In general conclusion as to the charges made against the commission on the floor of the Senate when the Sherman resolution was introduced, and the charges implied in the language of that resolution itself, it may be said:

(1) That the commission's reply to the Sherman resolution completely answers such charges, and that the personal statements of the commissioners and of the employees

show that there was no dereliction on the part of the commission, the commissioners, or the employees of the character charged, and in particular show—

(2) That Commissioner Colver went abroad, not at public expense, but entirely at his own expense;

(3) That he made no speeches in England and attended no social functions;

(4) That the alleged interview with him did not at all concern the subjects discussed in the article in the London Star;

(5) That there was no correspondence regarding the packers between Mr. Colver and Mr. McCurdy, of the British Ministry of Foods;

(6) That Mr. Colver did not see Mr. McCurdy while in England, and only spoke with him briefly on the phone to arrange an appointment, which appointment did not materialize.

The commission has been waiting nearly two years for any hearing or report by the Senate Interstate Commerce Committee on the Sherman resolution, but there has been none. The commission assumes that the Senate committee, on reading the reply of the commission to the resolution and on examining the documents transmitted by it, reached the conclusion that the resolution was shown by the commission's reply to have been based on misapprehension and that no action on the committee's part was necessary.

An examination of the commission's reply of July 31, 1919, to the Senate on the Sherman resolution will show many facts which indicate why there has been no pressure from the packers for a hearing or report on the resolution.

The emphasis by the packers on the Sherman resolution when it was first introduced, and their bringing up at this time of this matter of the reports sent to foreign Governments, are merely parts of a long continued effort to distract attention from the facts found in the commission's investigation of the packing industry.

Senator Kenyon's remarks on January 22, 1921, in reply to Senator Sherman were in part as follows (Congressional Record, pp. 1886–87):

* * * I was unable to hear very much of the speech of the Senator from Illinois (Mr. Sherman), and his address has not as yet been published in the Record; but I understand he made rather serious reflections upon the Federal Trade Commission, and especially upon Mr. Colver. One of the favorite occupations nowadays, of course, is to attack the Federal Trade Commission, and especially Mr. Colver, than whom I do not hesitate to say a more faithful servant of the people never occupied a public office. He has stood up under every kind of assailment, abuse, and malice, and he can really be proud, I think, of the enemies he has made. But the charge which, as I understand, was made by the Senator from Illinois, that the Federal Trade Commission had disseminated throughout the world information injurious to the meat business of the United States, is a charge that never had been made in the months of hearings that were had before the Agricultural Committee of the Senate and the hearings in the House.

* * * * * * *

On the 27th day of June, 1919, as appears by volume 58, part 2, of the Congressional Record, the following occurred:

"Mr. SHERMAN. Mr. President, I wish to ask the Senator from Ohio a question. Does he know who the chairman of the Federal Trade Commission is now?

"Mr. POMERENE. I think Mr. Colver is the chairman now.

"Mr. SHERMAN. Does the Senator know where he is at this time?

"Mr. POMERENE. I do not; I am not my brother's keeper in that respect.

"Mr. SHERMAN. I am not his keeper either; but I believe I have some accurate information about where he is. Unless he has returned recently, he is in England. When the Senator speaks of the fostering care of the Federal Trade Commission on our export trade I will say that I believe I will have adequate proof to present here that instead of promoting our export trade he is destroying it in England by unfriendly comments, by violent speeches reported in English newspapers denouncing certain of our export lines. I think he is paying his traveling expenses across the ocean out of such appropriations as this."

On July 10, 1919, as appeared by the Congressional Record of that date, volume 58, the Senator from Illinois introduced a resolution which I ask to have set out as a part of my remarks.

* * * * * * *

The information requested in this resolution was furnished to the Senate on the 31st day of July, 1919. It is too long a document to put in the Record, but portions of it are interesting.

The letter from Mr. Fort, chairman of the commission, to Commissioner Murdock I ask to have printed as a part of my remarks at this time.

There being no objection, the letter referred to was ordered to be printed in the record, as follows:

SPRING LAKE, N. J., *July 19, 1919.*

Commissioner MURDOCK,
Federal Trade Commission, Washington, D. C.

MY DEAR MURDOCK: I have your letter inclosing copy of the Sherman resolution, copy of the report of the export division of the Federal Trade Commission, for my amendment or approval, and your request that I make individual reply to the matters covered by the Senate resolution.

In the allotment among the commissioners of the work in the commission the export division, prior to my illness in April, 1919, was directly under my supervision, and the report of Dr. Notz for the division seems to be a complete summary of its activities in relation to export trade in packing-house products.

I have had no correspondence with any British official on the subject of import or export trade or on the meat business of American packers. I have had no communication even remotely connected with that.

The only incident that I recall having to do with the American packers' export trade was at the time that the Federal Trade Commission called for a report as to the operations of the foreign business of the packers. At this time Mr. Levy Mayer, representing Armour & Co., said to me that the real reason that the returns should not be made was that it might involve very heavy additional payment of income tax to the United States Government on the part of his client, and likewise might lead to taxation in Argentina and other foreign countries.

Mr. Mayer exhibited a list of a number of companies doing business in Argentina. As you remember, I was very much outraged at the suggestion that I could or would be party to the defrauding of this Government or, being a Government official, would be party to a deception on a friendly foreign Government. As you remember, I reported the circumstances immediately to my colleagues, and further discussion of the matter of the returns of the foreign branches of the packing companies was terminated, and I am informed the desired information was demanded and secured without any further delay.

This, I think, covers all my recollections of anything touching on foreign trade of the packers or the other things covered by Senator Sherman's resolution.

With best regards to you and your brethren, I am,

Very truly, yours,

JOHN FRANKLIN FORT,
Chairman.

Mr. Colver has denied the alleged interview in London and has shown that his expenses abroad were paid by himself.

* * * * * * *

I am embarrassed by not having a copy of the remarks of the Senator from Illinois (Mr. Sherman), and I did not hear that part of it, but, as related to me, he said that England became somewhat annoyed and angry over the situation; that England moved to control her meat industry because of what the Federal Trade Commission here had said about the packers, and that our trade with England suffered.

It is true that Britain did show some feeling about the American packer, and I am going to put in the record what I think was the reason for the feeling, and I hope Senators will read it. It was not because of any investigation of the Federal Trade Commission. They had tried to run the blockade with cargoes of meat. Seven consignments were in the prize courts of Britain. They used their influence also to stop a loan of the American Republic to those who were subsequently our allies; at least, it was so published in the newspapers. My proof of that is the great paper published in the State of the Senator from Illinois, the Chicago Tribune. On September 18, 1915, we find this heading on the front page:

"Packers ask Lansing to defy England. Cite Hay's dictum to Russia to smash ruling of prize court. Principle at stake."

I will not ask to have that all inserted, but on the next page, as a part of the same article, is this:

VEEDER DEMANDS ACTION.

Henry Veeder, counsel for the Swifts, directly charged England with as "flagrant violation" of international law as Germany committed in the submarine cases. His statement, made after conference with the Packingtown heads, amounted to a demand that the United States defy England in the meat cases and insist on a show-down.

In addition to declaring that the prize court's decision has been thoroughly inconsistent, Mr. Veeder said England is now breaking faith with the world when she repudiates the principles of international law, to which she subscribed in the declaration of London. * * *

BEARING ON THE BIG LOAN.

The possibility of the packers exerting an antagonistic influence on the negotiations now pending in New York for the $1,000,000,000 loan to the Franco-English commission, because of the Admiralty court's ruling, was held as improbable development by the Packingtown heads.

They refused to express themselves on the subject, but the intimation was that they would not directly involve the meat seizures in the loan negotiations.

Then there was a cable from London that the packers were to appeal from the ruling of the prize court.

In the issue of the same great paper of Tuesday, September 21, an article, on page 16, is headed: "Reynolds talks of Allies loan. Chicago banker, back from East, says $500,000,000 is contemplated."

Mr. Reynolds is the president of the Continental and Commercial National Bank, in which Mr. Armour is one of the heaviest stockholders, and Mr. Reynolds in this interview said:

"But the action of the British prize court in confiscating $2,500,000 of the packing-house products was an unfortunate decision, I think, to be laid before Chicago bankers at this time. Packing house interests are necessarily heavily interested in the larger banks, and, as is shown by their public utterances, they feel aggrieved at the prize court's action."

This was before the report of the Federal Trade Commission had ever been filed or gotten up.

Then again, in the issue of September 22, 1915, is set out a letter, whih was one of three letters from Ambassador Dumba to Baron Von Burian, Austro-Hungarian foreign minister, taken from J. F. J. Archibald, the ambassador's messenger. The article says:

"This letter has not heretofore been printed, is dated August 20 and follows."

Here is a letter which might well arouse feeling in England. It was not by any action of the Federal Trade Commission in this country, but by the effort to run the blockade to get meat to the enemies of Britain. Is it any wonder that Britain had some feeling about the packers in this country?

This letter from Mr. Dumba taken from this ambassador's messenger, says among other things:

"Says Wilson can control Congress."

That may have been true at that time. It continues.

"CONFERS WITH ARTHUR MEEKER ON A YACHT.

"As for the note to protest against British interference with shipping, which has so often been notified and as often postponed, I learn that the issue is delayed in consequence of the imminent declaration of cotton as contraband. The feeling which obtains among the great American importers was accurately represented in Mr. Meagher's (Meeker's) speech. Meagher is one of the principal exporters of the United States, for he is a partner in the Chicago firm of Armour & Co., who, with the firm of Swift, control the meat market of the whole Western Hemisphere.

"Mr. Meagher, whom I recently met on a yacht, and whose acquaintance I had already made in Chicago, absolutely regards England's acts as arbitrary. No fewer than 31 ships, with meat and bacon, shipments of his firm for Sweden, valued at $19,000,000, have been detained in English ports for months under suspicion that they ultimately are intended for Germany.

"The negotiations are being so long drawn out, because Mr. Meagher and his companions will not accept a lame compromise, but insist on full compensation or the release of the consignments, in which the bacon may be still sound.

"COULD REFUSE TO SEND MEAT TO ENGLAND.

"My informant further gave me to understand he has not yet played his last trump, namely, a refusal to import meat to England under the circumstances. He—that is to say the above named slaughtering houses—control the Argentine market. At the present moment they are paralyzed here also by the action of the British Admiralty, for the latter has commandeered most of the English freight ships intended to transport meat from Argentina."

Listen to this: If England had any feeling toward the meat packer, would she not have a right to, in view of this statement from the Austrian ambassador:

"If England stood face to face with the danger of not being able to get any meat from the United States or from Argentina she would soon give in."

This was in 1915. If there is any reason, as charged by the Senator from Illinois, for the feeling in Britain about the meat industry in this country, it is not because of anything the Federal Trade Commission has done; but on account of the efforts to run the blockade and get meat into Germany, which was at war with England, through Sweden, or other countries.

The letter of the President asking for the investigation was dated February 7, 1917, and the report of the Federal Trade Commission was filed July 3, 1918, or about three years after the Dumba letter was published. (Congressional Record, Jan. 22, 1921. pp. 1886–1887.)

(At the subsequent request of Mr. Kincheloe, the following statement was submitted by Mr. Durand, comprising the previous testimony of Commissioner Victor Murdock and citing that of Francis J. Heney, of the Federal Trade Commission, before the House Committee on Interstate Commerce in February, 1919, with reference to the public hearings conducted by the Federal Trade Commission in its investigation of the meat-packing industry.

(The testimony of Commissioner Murdock on this subject was as follows (hearings, Government Control of Meat Packing Industry, House Committee on Interstate Commerce, on H. R. 13324, pt. 5, pp. 2296 and 2380–2382):)

Mr. MURDOCK. * * * In this hearing the packers first of all resorted to a commonplace practice. They drew a red herring across the trail. One and all testified that they were not treated fairly. I am speaking largely for myself in this. I for one commissioner did not propose to stand between the law and a man who had broken the law. I did not propose by any manner of accident to grant immunity. The funds that we had were considerable but limited. I did not propose that the packers should filibuster and obstruct that inquiry—and this, gentlemen, was an inquiry. It was not an adversary proceeding. The President of the United States gave life to that inquiry through a letter of direction.

* * * * * * *

Mr. STINESS. I want to ask Mr. Murdock a question. There has been quite a discussion as to whether or not the packers have had a fair show, and whether they could appear as witnesses or not. If I remember correctly, Mr. Heney said that you presided at a hearing, I think, in Boston?

Mr. MURDOCK. That is right.

Mr. STINESS. You presided as a member of the commission, did you not?

Mr. MURDOCK. Yes.

Mr. STINESS. Had you prepared the evidence or gone over the evidence that was to be presented to you, the number of witnesses, and the time that you would talk in the investigation; had you considered those things?

Mr. MURDOCK. I do not recollect that. I fancy not.

Mr. STINESS. Mr. Heney prepared the case, did he not?

Mr. MURDOCK. I suppose he did.

Mr. STINESS. And he was the legal counsel for the Federal Trade Commission?

Mr. MURDOCK. Yes, sir.

Mr. STINESS. You say you are not a lawyer?

Mr. MURDOCK. No; I am not.

Mr. STINESS. Mr. Heney is a lawyer and of a reputation of being an able lawyer. You would decide upon the question as to who should be admitted to testify, would you not, before that commission?

Mr. MURDOCK. I suppose so; yes.

Mr. STINESS. And if you had any doubt in your mind about it, you would take the advice of your counsel, would you not?

Mr. MURDOCK. Well, within limits.

Mr. STINESS. You said if the question came up you would take the advice of the man acting as legal adviser?

Mr. MURDOCK. I think yes; but I would not be bound by his advice.

Mr. STINESS. But would you not be bound by his advice in affairs of the commission?

Mr. MURDOCK. If I did not think his advice was good, I would not. I have frequently differed with the attorneys, I will say.

Mr. STINESS. Did any of the packers, or their representatives, appear before you and appeal to you as the presiding officer of that meeting for permission to testify?

Mr. MURDOCK. I have no such recollection; no.

Mr. STINESS. Is your recollection sufficient so that if they had you would remember it?

Mr. MURDOCK. It seems to me it is; yes. I have no such recollection.

Mr. STINESS. Did they, through their counsel or themselves, or anyone else, ask permission to cross-examine any witness?

Mr. MURDOCK. Of me?

Mr. STINESS. Yes.

Mr. MURDOCK. No.

Mr. STINESS. Then no testimony was offered and no cross-examination was asked for?

Mr. MURDOCK. No; that is correct.

Mr. STINESS. They have stated—the packers have stated here before this committee—that such was the case.

Mr. MURDOCK. That they asked me in Boston?

Mr. STINESS. No; that they asked at different times and places to be allowed to testify, and Mr. Heney, if I remember, testified that one time you presided in Boston.

Mr. MURDOCK. Yes.

Mr. STINESS. So I have asked you if they did it then.

Mr. MURDOCK. No.

Mr. STINESS. Had they asked to be sworn or had they asked to testify, or had they asked to be permitted to cross-examine any witness, would you have permitted it?

Mr. MURDOCK. I think not. Of course I do not know what I would have done in that event. You are asking me a hypothetical question there.

Mr. STINESS. I am asking you as to the policy of the commission.

Mr. MURDOCK. I should say not.

Mr. STINESS. You wanted to get at the truth of the matter, did you not?

Mr. MURDOCK. Yes.

Mr. STINESS. Then, why would you have refused to allow them to testify?

Mr. MURDOCK. As I stated in the beginning here to-day, I did not for one want to grant immunity; that is the first thing; neither did I want that hearing delayed by filibustering and obstructions, as I knew would be in that case. But I want to say frankly if the thing had been put up to me in Boston I do not know what I would have done. It was a new proposition to me. I had not talked to anybody about it. But I should also like to say this: I have no recollection of the packers ever asking to be heard. Levy Mayer, the attorney for Armour, is a man I have known for 25 years. Levy Mayer came into the commission during the progress of the hearings, and as I recollect it his complaint was that we were injuring the packers' credit, and he wanted hearings stopped entirely. Subsequently he appeared before Gov. Fort. What happened then I have only secondhand knowledge of, and I am not going to report it; it should come direct. The third time Levy Mayer and Mr. Armour came before Gov. Fort and Mr. Colver, two members of the commission—I was not there—and Mr. Armour made a statement, but as near as I can discover he did not ask to be heard further than that, and that was long after the hearings had closed. But, as I said in the beginning, this was not an adversary proceeding; this was an inquiry.

(The testimony of Mr. Heney on this subject covers pages 2022–2062 and 2092–2093 in the same volume.)

The CHAIRMAN. Without objection, the committee will stand adjourned until to-morrow morning at 10 o'clock. As it was announced awhile ago, the hearings are now closed on this matter, unless the committee determines to reopen them in the morning.

(And thereupon, at 6 o'clock and 45 minutes p. m., the committee adjourned until to-morrow, May 6, 1921, at 10 o'clock a. m.)

(There is printed as follows the report of this committee on its packer bill last Congress, which was ordered incorporated in these hearings during the first day:)

[House Report No. 1297, Sixty-sixth Congress, third session]

FEDERAL LIVE STOCK COMMISSION.

February 5, 1921, committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. Haugen, from the Committee on Agriculture, submitted the following report (to accompany S. 3944):

The Committee on Agriculture, to whom was referred the bill (S. 3944) to create a Federal live-stock commission, to define its powers and duties, and to stimulate the production, sale, and distribution of live stock and live-stock products, and for other purposes, having considered the same, report the same with an amendment in the nature of a substitute and as so amended recommend that it pass.

The amendment proposed by the committee is to strike out all after the enacting clause and insert the following:

"TITLE I.—DEFINITIONS.

"This act may be cited as the 'Packers and stockyards act, 1921.'

"SEC. 2. When used in this act—

"The term 'person' includes individuals, partnerships, corporations, and associations;

"The term 'live stock' means live or dead cattle, sheep, swine, horses, mules, or goats;

"The term 'live-stock products' means all products and by-products of the slaughtering and meat-packing industry derived in whole or in part from live stock; and

"The term 'commerce' means commerce among the several States or with foreign nations, or in any Territory or possession of the United States or in the District of Columbia, or between any such Territory or possession and any State, Territory, possession, or foreign nation, or between the District of Columbia and any State, Territory, possession, or foreign nation.

"For the purpose of this act (but not in any wise limiting the foregoing definition) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the live-stock and meat-packing industries, whereby live stock, live-stock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another; including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of live stock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act. For the purpose of this paragraph the word 'State' includes Territory, the District of Columbia, possession of the United States, and foreign nation.

"TITLE II—PACKERS.

"SEC. 201. When used in this act—

"The term 'packer' means any person engaged in the business (a) of buying live stock in commerce for purposes of slaughter, or (b) of manufacturing or preparing ive-stock products for sale or shipment in commerce, or (c) of marketing live-stock products, dairy products, poultry, poultry products, or eggs, in commerce; but no person engaged in such marketing business shall be considered a packer unless—

"(1) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business referred to in clause (a) or (b) above, or unless

"(2) Any interest in such marketing business is owned or controlled, directly or indirectly, through stock ownership or control or otherwise, by any person engaged in any business referred to in clause (a) or (b) above, or unless

"(3) Any person or persons jointly or severally, directly or indirectly, through stock ownership or control or otherwise, by themselves or through their agents, servants, or employees, own or control in the aggregate 20 per cent or more of the voting power or control in such marketing business and also in any business referred to in clause (a) or (b) above.

"SEC. 202. When used in this title, the term 'Secretary' means the Secretary of Agriculture.

"SEC. 203. It shall be unlawful for any packer to—

"(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce; or

"(b) Make or give, in commerce, any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject, in commerce, any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

"(c) Sell or otherwise transfer to or for any other packer, or buy or otherwise receive from or for any other packer, any article for the purpose or with the effect of apportioning the supply in commerce between any such packers; or

"(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of buying, selling, or dealing in, any article in commerce, or of restraining commerce; or

"(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce; or

"(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business in commerce, or (2) to apportion purchases or sales of any article in commerce, or (3) to manipulate or control prices in commerce; or

"(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d), or (e).

"SEC. 204. (a) Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this title, he shall cause a complaint in writing to be served upon the packer, specifying the alleged violations, and requiring the packer to attend and testify at a hearing at a time and place designated therein at least 30 days after the service of such complaint; and at such time and place there shall be afforded the packer a reasonable opportunity to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel.

"(a) If, after such hearing, the Secretary finds that the packer has violated or is violating any provision of this title, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearings shall be reduced to writing and filed in the records of the Department of Agriculture.

"(c) Until a transcript of the record in such hearing has been filed in a circuit court of appeals of the United States, as provided in section 205, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

"(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the act entitled 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914.

"SEC. 205. (a) An order made under section 204 shall be final and conclusive unless within thirty days after service the packer appeals to the circuit court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

"(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order. If before such transcript is filed the Secretary amends or sets aside his report or order, in whole or in part the petitioner may amend the petition within such time as the court may determine on notice to the Secretary.

"(c) At any time after such transcript is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

"(d) The evidence so taken or admitted, duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way.

"(e) The Court may affirm, modify, or set aside the order of the Secretary, but the findings of the Secretary as to the facts, if supported by evidence, shall be conclusive.

"(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence. Such new or modified findings as to the facts, if supported by evidence, shall be conclusive.

"(g) If the circuit court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employees, from violating the provisions of such order, or such order as modified.

"(h) The circuit court of appeals shall have exclusive jurisdiction to review, and to set aside or modify, such orders of the Secretary; and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 240 of the Judicial Code, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the circuit court of appeals in so far as such decree operates as an injunction.

"(i) For the purposes of this title the term 'circuit court of appeals,' in case the principal place of business of the packer is in the District of Columbia, means the Court of Appeals of the District of Columbia.

"SEC. 206. (a) Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 204, or such order as modified—

"(1) After the expiration of the time allowed for filing a petition in the circuit court of appeals to set aside or modifiy such order, if no such petition has been filed within such time; or

"(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the circuit court of appeals and no such writ has been applied for within such time; or

"(3) After such order, or such order as modified, has been sustained by the courts as provided in section 205, shall on conviction be fined not less than $1,000 nor more than $10,000, or imprisoned for not less than one year nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

"(b) The Secretary shall report any violation of this section to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

"SEC. 207. Every packer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any packer do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any packer who keeps any other or different accounts, records, and memoranda than those prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both.

"SEC. 208. For the purpose of securing effective enforcement of the provisions of this title, the provisions (including penalties) of sections 6, 8, 9, and 10 of the act entitled 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title and to any person subject to the provisions of this title, whether or not a corporation.

"TITLE III.—STOCKYARDS.

"SEC. 301. When used in this act—

"The term 'stockyard owner' means any person engaged in the business of conducting or operating a stockyard;

"The term 'stockyard services' means services or facilities furnished at a stockyard in connection with the receiving, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of live stock;

"The term 'market agency' means any person engaged in the business of (1) buying or selling in commerce live stock at a stockyard on a commission basis, or (2) furnishing stockyard services; and

"The term 'dealer' means any person, not a market agency, engaged in the business of buying or selling in commerce live stock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser.

"SEC. 302. When used in this title the term 'commission' means the Interstate Commerce Commission; and

"The term 'stockyard' means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens or other inclosures and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard in any calendar year if in the preceding calendar year there were not handled at such stockyard 150,000 or more head of cattle or 500,000 or more head of hogs.

"The commission shall from time to time ascertain, after such inquiry as it deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as it may determine. The findings of the commission as to what stockyards are within the foregoing definition shall be final. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the commission that such stockyard no longer comes within the foregoing definition.

"SEC. 303. After the expiration of 30 days after the commission has given public notice that any stockyard is within the definition of section 302 by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the commission, under such rules and regulations as it may prescribe, his name and address, the character of business in which he is engaged and the kinds of stockyard services, if any, which he furnishes at such stockyard. Whoever violates the provisions of this section shall be liable to a penalty of not more than $500 for each such offense and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

"SEC. 304. It shall be the duty of every stockyard owner and market agency to furnish upon reasonable request, without discrimination, reasonable stockyard services at such stockyard.

"SEC. 305. All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful.

"SEC. 306. (a) Within 60 days after the commission has given public notice that a stockyard is within the definition of section 302 by posting copies of such notice in the stockyard the stockyard owner and every market agency at such stockyard shall file with the commission, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard, after the expiration of such 60 days such schedules must be filed before any stockyard services are furnished.

"(b) Such schedules shall plainly state all such rates and charges in such detail as the commission may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The commission may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

"(c) No changes shall be made in the rates or charges so filed and published, except after 10 days' notice to the commission and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the commission may, for good cause shown, allow changes on less than 10 days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

"(d) The commission may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the commission shall be void and its use shall be unlawful.

"(e) Whenever there is filed with the commission any schedule stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the commission may either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon, the commission, upon filing with such schedule and delivering to the person filing it a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than 30 days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, the commission may extend the time of suspension for a further period not exceeding 30 days, and if the proceeding has not been concluded and an order made at the expiration of such 30 days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

"(f) After the expiration of the 60 days referred to in subdivision (a) no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyards services furnished at the stockyard have been filed and published in accordance with this section and the orders of the commission made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified; nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

"(g) Whoever fails to comply with the provisions of this section or of any regulation or order of the commission made thereunder, shall be liable to a penalty of not more than $500 for each such offense, and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the commission made thereunder, shall on conviction be fined not more than $1,000, or imprisoned not more than one year, or both.

"SEC. 307. It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

"SEC. 308. (a) If any stockyard owner, market agency, or dealer, violates any of the provisions of sections 304, 305, 306, or 307, or of any order of the commission made under this title, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

"(b) Such liability may be enforced either (1) by complaint to the commission as provided in section 309, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies.

"SEC. 309. (a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the 'defendant') in violation of the provisions of sections 304, 305, 306, or 307, or of any order of the commission made under this title, may at any time within two years after the cause of action accrues, apply to the commission by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the commission to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the commission. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the commission to investigate the matters complained of in such manner and by such means as it deems proper.

"(b) The commission, at the request of the live-stock commissioner, board of agriculture, or other agency of a State or Territory having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subdivision (a).

"(c) The commission may at any time institute an inquiry on its own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the commission, by any provision of this title, or concerning which any question may arise under any of the provisions of this title, or relating to the enforcement of any of the provisions of this title. The commission shall have the same power and authority to proceed with any inquiry instituted upon its own motion as though it had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

"(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

"(e) If after hearing on a complaint the commission determines that the complainant is entitled to an award of damages, the commission shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

"(f) If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the commission in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

"SEC. 310. Whenever after full hearing upon a complaint made as provided in section 309, or after full hearing under an order for investigation and hearing made by the commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the commission is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the commission—

"(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory, to be thereafter followed; and

"(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the commission finds that it does or will exist, (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and (3) shall conform to and observe the regulation or practice so prescribed.

"SEC. 311. Whenever in any investigation under the provisions of this title, or in any investigation instituted by petition of the stockyard owner or market agency concerned, which petition is hereby authorized to be filed, the commission after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, or market agency, for or in connection with the receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of live stock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in live stock on the one hand and interstate or foreign commerce in live stock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in live stock, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, prejudice, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners or market agencies parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

"SEC. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce at a stockyard, of live stock.

"(b) Whenever complaint is made to the commission by any person, or whenever the commission has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the commission after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the commission finds that it does or will exist.

"SEC. 313. Except as otherwise provided in this act all orders of the commission other than orders for the payment of money shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until its further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the commission, or is suspended or set aside by a court of competent jurisdiction.

"SEC. 314. Any stockyard owner, market agency, or dealer, who knowingly fails to obey any order made under the provisions of sections 310, 311, or 312 shall forfeit to the United States the sum of $500 for each offense. Each distinct violation shall be a separate offense and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

"It shall be the duty of the various district attorneys under the direction of the Attorney General to prosecute for the recovery of forfeitures. The costs and expense of such prosecutions shall be paid out of the appropriation for the expenses of the courts of the United States.

"SEC. 315. If any stockyard owner, market agency, or dealer fails to obey any order of the commission, other than for the payment of money, while the same is in effect, the commission, or any party injured thereby, or the United States by its Attorney General, may apply to the district court in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives, from further disobedience of such order or to enjoin upon him or them obedience to the same.

"SEC. 316. For the purpose of securing effective enforcement of the provisions of this title, the provisions (including penalties) of sections 12, 14, 16a, 17, and 19, and of the first ten paragraphs of section 20, of the interstate commerce act, as amended, and of all laws relating to the compelling of testimony before the commission and the immunity of witnesses in connection therewith, or to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the commission, are made applicable to the jurisdiction, powers, and duties of the commission in enforcing the provisions of this title, and to any person subject to the provisions of this title, except that the commission shall have no authority to prescribe the form of accounts, records, and memoranda of a dealer unless it finds that the accounts, records, and memoranda kept by such dealer do not fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise.

"TITLE IV.—GENERAL PROVISIONS.

"SEC. 401. When construing and enforcing the provisions of this act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

"SEC. 402. If any officer, employee, agent, director, or member of the governing board, of any packer, stockyard owner, market agency, or dealer, negligently omits personally to perform any necessary act or properly to supervise or apportion duties among his subordinates, in the execution of the authority and functions vested in him, and by reason of such omission a violation of this act directly results, he shall be liable to all the penal or other provisions of this act in respect to such violation. The provisions of this section shall be held to extend and not to limit the application of sections 37 and 332 of the act entitled 'An act to codify, revise, and amend the penal laws of the United States,' approved March 4, 1909, and nothing in this section shall be held to relieve any packer, stockyard owner, market agency, or dealer from the penal or other provisions of this act.

"SEC. 403. Nothing contained in this act, except as otherwise provided herein, shall be construed—

"(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the act entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, the interstate commerce act as amended, the act entitled 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914, the act entitled 'An act to promote export trade, and for other purposes,' approved April 10, 1918, or sections 73 to 77, inclusive, of the act entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894, as amended by the act entitled 'An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved February 12, 1913, or

"(b) To alter, modify, or repeal such acts or any part or parts thereof, or

"(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this act becomes effective, or

"(d) To relieve any person from obedience to any consent or other decree heretofore entered against him by a court of competent jurisdiction.

"SEC. 404. If any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of such provision to other persons and circumstances shall not be affected thereby."

Amend the title so as to read:

"To regulate interstate and foreign commerce in live stock, live stock products, dairy products, poultry, poultry products, and eggs, and for other purposes."

COMPARISON OF THE SENATE BILL AND COMMITTEE AMENDMENT.

ADMINISTRATION.

The Senate bill creates a new commission, to be known as the Federal live-stock commission, composed of three commissioners, appointed by the President, with the advice and consent of the Senate, at a salary of $10,000 per year, and provides that any commissioner may be removed by the President or by concurrent resolution of Congress. The committee is opposed to the creation of any new commission and believes that existing agencies may be utilized instead. Accordingly the committee amendment gives to the Secretary of Agriculture control over the packers on the theory that his duties are closely connected with the investigation and control of the meat-packing industry. The committee amendment gives to the Interstate Commerce Commission control over the stockyards and commission men and others furnishing services at stockyards. That commission already has control over transportation of cattle, which does not end until they are unloaded at the yards, and, through its administration of the act relating to the feeding and watering of cattle in transit, has familiarity with the general subject matter. It seemed to your committee that this governmental agency by a slight extension of its authority could adequately take care of the stockyard situation. The provisions of the committee amendment in Title III, sections 301 to 316, are modeled on the interstate commerce act and give to the commission, in relation to stockyards and persons furnishing services thereat substantially similar powers as it now has in relation to common carriers.

The provision of the Senate bill (sec. 3) providing for the removal of a member of the commission created by the bill by concurrent resolution of Congress seems objectionable as opening the bill to a possible veto by the President, as in the case of the budget bill, which contained a similar provision.

DEFINITION OF PACKERS.

The Senate bill in section 2 declares that the term "packer" means "any person engaged in the business of slaughtering live stock or preparing live-stock products for sale in commerce, or of marketing live-stock products as a subsidiary of or an adjunct to any such slaughtering or preparing business." This definition so drawn would apparently leave outside of all regulation many branches of the slaughtering and meat packing industry. It would seem that skillful reorganization of the existing forms of corporate organization would result in escaping the provisions of the act, as, for example, the organization of a marketing corporation which owns the majority of the stock of a corporation engaged in the slaughtering business. Such marketing corporation would not seem to be within the definition of the act, inasmuch as it is not "a subsidiary of or an adjunct to" the slaughtering corporation, but the reverse is true, since the marketing company is the parent corporation.

Nor does the definition in the Senate bill include cases where neither corporation owns or controls a dollar of stock in the other, but the control of each is in the hands of common stockholdres. Thus, if all the stock of corporation A, engaged in the slaughtering business, and corporation B, engaged in the marketing business, were owned by X, Y, and Z, individuals, corporation B would clearly not be a "packer" since in no sense can it be said to be a "subsidiary of or an adjunct to" corporation A.

These defects are remedied in the committee amendment (sec. 201).

The Senate bill does not include in its definition of "packer" persons engaged in the business of marketing dairy products, poultry, poultry products, or eggs, even though 100 per cent controlled by a packer. The committee amendment (sec. 201) includes such a person if having an interest in a packing business, or if a packer has any interest in his business, or if a common control amounting to 20 per cent exists in both businesses.

The Senate bill is also open to the objection that in section 6 it provides for the termination of the jurisdiction of the Federal Trade Commission "in so far as it relates to live stock and live-stock products in domestic commerce." Inasmuch as there are hundreds of concerns throughout the country selling live-stock products which are in no sense controlled by any of the persons engaged in the packing industry, even under the most liberal interpretation of the Senate definition of "packer," but all of which are now subject to the jurisdiction of the Federal Trade Commission, it would appear that the effect of the Senate bill would be to remove these concerns from the jurisdiction of the Federal Trade Commission without intrusting them to the jurisdiction of any governmental agency created by the bill. The result of this would be that they would be entirely without regulation except in so far as they might be subject to the antitrust laws.

DIVORCING OF PACKERS FROM STOCKYARDS.

The Senate bill in section 13 prohibits the packers, after two years from the date of passage of the act, from owning or having any interest in any stockyard unless the commission under certain conditions extends the period. The committee amendment contains no such provision, on the ground that the consent decree entered into by the five great packers and the Attorney General before the Supreme Court of the District of Columbia already provides for such separation of packers and stockyards as is necessary at this time.

CONTROL OF STOCKYARDS.

The Senate bill places the control of stockyards in the live-stock commission. The committee amendment places it in the Interstate Commerce Commission. The Senate bill gives the live-stock commission power to fix rates, charges, and practices in and on the stockyard, but without any hearing. If the rule of the commission is not obeyed, the commission then must hold a hearing and order the violator to cease and desist. From this order an appeal may be taken to the courts, and there is no criminal penalty until after court action, unless no appeal is taken.

The committee amendment provides that the Interstate Commerce Commission, before making its regulations, must hold full hearings, but, the rule once made, there is a penalty for violation, the only remedy of the violator being an injunction to restrain the commission's action. The procedure has been carefully worked out on the model of the interstate commerce act and is believed to secure the most adequate enforcement of fair and just dealings on the stockyards that can be devised. The committee amendment also gives a right of action for damages, enforceable by suit at law or complaint before the commission, to any person injured by the violation of any provision of the act by any stockyard owner, commission man, or other person furnishing stockyard services. No such provision is in the Senate bill.

ACTS OF PACKERS WHICH ARE MADE UNLAWFUL.

The Senate bill in section 12 enumerates various acts which it is unlawful for packers to engage in. In several instances (e. g., subdivisions (b) and (d)) the acts made unlawful are not limited to acts done in interstate or foreign commerce, thus raising serious questions of constitutional law. In other cases the unlawful acts are limited to those committed in relation to live-stock products. There seems no reason why the buying and selling between packers of products other than live-stock products for the purpose of apportioning the supply should not be unlawful as well as such buying and selling of live-stock products. The evils of the packing industry are not so much isolated instances of unfairness as a general course of action for the purpose of destroying competition, and the bill should be broad enough to secure proper control of the packer in all his dealings.

The Senate bill, in subdivision (g) of section 12, appears to make it unlawful for a packer to "fail to act contrary to the provisions" of the act.

The committee amendment in section 203 seeks to remove these defects in the Senate bill and by a more careful statement to prohibit all that should be prohibited but to keep within the limits of the Constitution.

CRIMINAL LIABILITY OF CORPORATE OFFICERS.

The Senate bill, in section 19, and the committee amendment in section 401, each hold the corporation liable for the acts, omissions, or failures of its officers in violation of a duty placed by law upon the corporation, and this substituted liability has been held constitutional by the United States Supreme Court, New York Central Railroad *v.* United States (1908), 212 U. S., 480. As a result, the stockholder may suffer a depreciation of his share of the assets in his pro rata amount of the fine levied, but such substituted liability does not extend to the penalty of imprisonment. (See Pharmaceutical Society *v.* London, etc., Supply Association (1880), 5 App. Cas., 857, 869, per Lord Blackburn.)

The committee, however, is of the opinion that the only effective method of compelling huge industrial corporations, such as the packers and stockyard operators, to comply with the law, is to compel the officers in charge of the activities of the corporation to assume personal responsibility for seeing to it that the corporate affairs are conducted in accordance with law, rather than to rely solely on holding the corporation responsible by fine. The mere finding of the corporation is not so severe but that often the corporation can easily afford, from the profits obtained from the violation, to pay any fine that may possibly result upon being proved guilty of the violation. And the stockholders, despite their indirect loss, either feel that a good bargain has been driven in their behalf or will find themselves too powerless to bring pressure to bear upon the officers. Again, in many cases, the principal officers control a majority of the stock, and the realization that a pecuniary loss only will be suffered, is a small preventative unless the fine authorized is so large as to make the court hesitant in imposing it.

The existing law, however, is extremely confused as to the liability of officers for the failure of the corporation to be conducted in accordance with law. If the officer actually participates by positive act of his own in the violation, or so admits by demurrer, he will be held liable as an accessory (People *v.* Clark (1891), 8 N. Y. Crim., 179; United States *v.* McAndrews & Forbes Co. (D. C., 1906), 149 Fed., 823, 832; sec. 332, U. S. Penal Code), or as a conspirator (People *v.* Duke (N. Y., 1897), 37 Crim. App., 372; People *v.* Winslow (D. C., 1912), 195 Fed., 578; affirmed, 227 U. S., 302; sec. 37, U. S. Penal Code). In many cases, however, the officer acts alone and has no accomplice. If the statutory duty is then construed as resting only upon the corporation, as is customary in the case of a corporate act, the officer will not be liable, except in rare cases through the strained doctrine of a constructive accessory to or conspirator with the entity itself. (Kaufman *v.* United States (C. C. A., 1912), 217 Fed., 613; Cohen *v.* United States (C. C. A., 1907), 157 Fed., 651; Wood *v.* United States (D. C., 1913), 204 Fed., 55.)

When, however, as in the majority of cases, the officer's misconduct arises from no positive act on his part but merely the failure or omission to take the action necessary for compliance or to see to it that his subordinates take such action or that to some one is apportioned the duty of seeing to the compliance with the particular statutory requirement, the officer will in most cases be found not liable in criminal proceedings. And to this class of cases may be added those in which the actual consent to or participation in or authorization of the violation is found practically impossible of proof. The only possible existing remedy is the continued regulation of business by court injunction and the institution of contempt proceedings against individual officers for any violation of the injunction. But, as stated elsewhere in this report, the committee is of the opinion that the Federal courts and the district attorneys have not the facilities, experience, or personnel adequate for such regulation with justice either to the packer or operator or to the public. Rather such regulation should be vested in an administrative body.

It will be found that the liability of corporate officers in the type of case adverted to in the preceding paragraph has frequently been expressly limited to cases in which participation in the violation is actually proved (Rex *v.* Hendrie (1905), 11 Ont. L. Rep., 202; Rex *v.* Hays (1907), 14 Ont. L. Rep., 201), or in which consent is given to or direct knowledge had of the violation (People *v.* England (N. Y., 1882), 27 Hun., 139; Crall *v.* Commonwealth (1905), 13 Va., 855; State *v.* Ross (1909), 55 Oreg., 450; State *v.* Carmean (1905), 126 Iowa, 291). It is true that a few cases hold liable the principal officers for deliberate or negligent failure properly to supervise or apportion

the duties to their subordinates or presume that they have given authority to their subordinates actually to carry on the forbidden practices in the conduct of the business along its customary lines. (United States *v.* Mayfield (D. C., 1910), 177 Fed., 765; Rex *v.* Medley (1834), 6 Car. & Payne, 292; People *v.* White Lead Works (1890), 82 Mich., 471, 479; Cowley v. People (1881), 83 N. Y., 464, 469; State *v.* Burnam (1912), 71 Wash., 199; Overland Cotton Mills Co. *v.* People (1904), 32 Colo., 263.) But the doctrine of law achieving this result is far from firmly established and the above cases are the exception to the general rule.

In order to enforce personal responsibility and prevent its being shifted either to the corporate entity or the stockholders or to some subordinate who is made the scapegoat, the committee amendment provides in section 402 that any officer, employee, agent, director, or member of the governing board of any packer, stockyard owner, market agency, or dealer, who negligently omits personally to perform any necessary act, or properly to supervise or apportion the duties among his subordinates in the execution of the authority and functions vested in him by reason of such omission a violation of this act directly results, he shall be liable for such violation. The Senate bill contains no corresponding provision and in the opinion of the committee its omission constitutes a grave weakness. The Senate bill in section 23 makes criminally liable an officer of the packer who fails to obey an order of the commission. The order, however, is addressed to the packer generally and does not place any duty upon the officer positively to see to it that some of his subordinates are vested with the duty of executing the order and are supervised so as properly to execute it. The duty would rest solely on the packer as a corporation, and even if the term "packer" were construed to include "officer," just as the term "person" is so defined by section 2 of the Senate bill, nevertheless the officer's responsibility would cease if he personally did not participate in, authorize, or consent to any positive act in violation of the order.

DEFINITION OF "LIVE STOCK."

The Senate bill includes within the definition of "live stock" only cattle, sheep, and swine. The committee amendment covers, in addition, horses, mules, and goats. In this connection attention is called to the fact that by the Agricultural appropriation act approved July 24, 1919, horse meat was made subject to the meat-inspection act and that there are already two plants under Federal inspection.

POWERS OF BUREAU OF MARKETS.

The Senate bill in section 6 provides that the commission created by the bill shall have all the powers and duties heretofore exercised or performed by the Bureau of Markets in the Department of Agriculture relating to the acquisition and dissemination of information regarding the production, distribution, and consumption of live stock and live-stock products. It is far from clear under the terms of the bill whether these powers and duties are transferred or whether they are duplicated. In any event such a provision is unnecessary in the committee amendment, which gives control of the packing industry to the Secretary of Agriculture.

ACCOUNTS OF PACKERS.

The Senate bill in section 16 provides that the packers must keep statements of account and make such reports or returns as the commission may require authorizes the commission to prescribe uniform system of accounts, and requires the installation and use thereof by the packers. Apparently under the bill the only method of enforcing this requirement is by the same process of appeals through the courts as is provided for violation of any other order of the commission. The committee amendment authorizes the Secretary of Agriculture, whenever he finds that the accounts of a packer do not fully and correctly disclose all transactions involved in his business, to prescribe the manner and form in which the accounts shall be kept, and provides a criminal penalty for any packer who keeps any other or different accounts than those prescribed by the Secretary.

VOLUNTARY REGISTRATION.

The Senate bill in section 25 contains a system of voluntary registration of persons conducting stockyards, slaughtering establishments for live stock, or processing, preserving, or storing live stock or perishable foodstuffs. As a condition of registration all registrants bind themselves to comply with all the rules and regulations which the commission may make and in return are to be given various advantages. No

testimony was given before the committee showing any good reason why such a system should be put into operation, but on the other hand it was contended that the purpose of the section was to make it practically necessary for every packer to come under the section and thereby to lose control of the method of conducting his business. The committee felt that in the absence of some strong reason for the adoption of such a system it would be dangerous at this time to enter upon such an experiment, which seems little short of a licensing system, which the experience of the past has not proved of benefit—on the contrary, a most expensive system.

The rules and regulations of the meat division of the United States Food Administration, as amended November 1, 1918, relating to the profits of slaughtering and meat-packing concerns, provide (see Exhibit J, p. 537, hearings before the Committee on Agriculture, House of Representatives, on cold-storage legislation):

"ARTICLE I.

"SECTION 1. Every person or corporation shall be subject to these rules and regulations who is required to procure a license for the conduct of his business by the proclamation of the President of the United States dated October 8, 1917, and who shall be engaged in the slaughtering of live stock and the manufacture of products therefrom and whose aggregate sales during the 12 months ending November 1, 1917, exceeded $100,000,000. These rules shall take effect as of November 1, 1917.

"ARTICLE II.

"SEC. 4. Every licensee shall so conduct his business that the annual profit of business, defined in section 2 of this article, shall not exceed 9 per cent of the investment therein, as hereinafter defined.

"ARTICLE II.

"SEC. 8. (3) The aggregate amount treated by licensee as the investment in busines defined in section 2 of this article shall in no case exceed the amount of the capital stock, bonds, bills payable, interest-bearing accounts payable, and surplus and undivided profits of licensee's total business * * * less his investment in business not subject to these regulations."

Generally, in referring to "annual profits of business," it has reference to net profits on capital stock invested or on capital stock, surplus, and undivided profits, in which case the interest actually paid on bonds and money borrowed is allowed, and as such is generally considered satisfactory profits, but under the license system and under the rules and regulations it will be observed that 9 per cent was allowed on bonds, bills payable, interest-bearing accounts payable, etc. As a result a packer might go into the market and borrow money on his note or interest-bearing account at a low rate of interest and be allowed 9 per cent, or a profit of $6,000, on every $100,000 of borrowed money.

Under the license, according to Moody's Analysis of Industrial Investments, 1920, it was made possible for the Cudahy Packing Co., in the year ending October 31, 1918, to make a profit on preferred stock of 39½ per cent, and on common stock of 24½ to 25½ per cent; Morris & Co. to make a profit of 140.6 per cent on its stock in 1918; Armour & Co. to make in the year ending November 3, 1918, 41 per cent on preferred stock and 15.2 per cent on common stock; Swift & Co. to make a profit of 18.51 per cent on its stock in 1918; and for the year ending December 28, 1918, Wilson Co. a profit on preferred stock of 72.84 per cent and 34.49 per cent on common shares.

RULES AND REGULATIONS.

The Senate bill in sections 10 and 15 give the commission power to make all rules and regulations necessary for the enforcement of the act and makes it the duty of all persons subject to the act to obey these rules and regulations. No penalty is provided for a violation of the rules and regulations, and the only method of enforcing them is for the commission after notice and hearing to make an order to the packer to cease and desist from further disobedience of the rule. Inasmuch as the rule, if it is to have any force, must be founded upon the act, and inasmuch as the bill provides a method for the commission after hearing to make an order against the packer to cease and desist from violating the act, it is not apparent what useful purpose is attained by giving power to make rules and regulations. The committee amendment proceeds upon the theory that no liability rests upon the packer until after the Secretary of Agriculture upon full hearing has made an order to cease and desist from a violation

of act. After such order has been sustained by the courts, or after the lapse of 30 days if no appeal is taken from the order, a violation of the order is punishable by criminal penalty.

PROCEDURE FOR DETERMINING VIOLATIONS BY PACKER.

The Senate bill in Title IV provides that if the live-stock commission believes that a packer is violating any provision of the act or of any rule or regulation made under the act, it shall, after hearing, make an order to cease and desist from the violation. After service of the order the packer may appeal to the circuit court of appeals, which may modify or set aside the order, but only if the packer can show that "the order is unsupported by the weight of the evidence," or was issued without due notice and hearing, or infringes the Constitution, or is beyond the jurisdiction of the commission.

The failure of the Senate bill to observe the distinction between an order based on a violation of the act and an order based on a violation of a rule or regulation would, it is feared, cause great confusion and differences of great importance in the decision of the appeal. It would appear that in the first case it would be the duty of the court to weigh all the evidence taken at the hearing in order to determine the existence of facts which support the finding of a violation of the law, whereas in the second case it is clearly arguable, if not certain, that the only function of the court would be to determine whether the weight of the evidence shows that a regulation of the commission has been violated. Suppose, for example, that the commission makes a regulation that a certain practice is unfair, and prohibits its continuance. An alleged violation of the regulation occurs, and the commission, after hearing, finds that the violation is proved and makes an order to cease and desist. Upon appeal the only question for the court would seem to be: Does the weight of the evidence show that the packer has violated the regulation? and the court would have no right to enter upon a consideration of the question: Does the weight of the evidence show the existence of facts which make the regulation itself fair and reasonable? which question it would be clearly authorized to examine had the commission's order been based on a violation of the law itself.

As pointed out above in this report, under the heading "Rules and regulations," no good reason is apparent why the commission should be given power to make rules, if their disobedience can be punished only in the same manner as a disobedience of the law, and if they are to be punished after a more drastic procedure than in the case of a violation of the law itself, the injustice of such a grant of power is clear.

The committee amendment, which does not authorize the Secretary of Agriculture to forbid, by administrative fiat, acts which are not invalid by the terms of the law, provides that when, after full hearing, the Secretary finds that the law has been violated, he may issue an order, from which an appeal may be taken to the circuit court of appeals. The court may modify or set aside the order, but the Secretary's findings of fact, if supported by evidence, are conclusive. An examination of the decisions of the Supreme Court shows that this procedure is not, as are the corresponding provisions of the Senate bill, open to the possible doubt as to its constitutionality, but does on the other hand afford the packer the protection from arbitrary administrative action demanded by the courts. At the same time the court is left free to give effect to the determinations of the Secretary, unless they are arbitrary or unreasonable. The importance of the distinctions above discussed to the efficient enforcement of the legislation to be enacted merits, in the committee's opinion, the setting forth in this report of such decisions.

1. Interstate Commerce Commission *v.* Louisville & Nashville Railroad Co. (1913), 227 U. S., 88, 90–92.

"On the appeal here, the Government insisted that while the act of 1887 to regulate commerce (24 Stat., 379, c. 104, secs. 14, 15, 16) made the orders of the commission only prima facie correct, a different result followed from the provision in the Hepburn Act of 1906 (34 Stat., 584, c. 3591, sec. 15) that rates should be set aside if after a hearing the 'commission shall be of the opinion that the charge was unreasonable.' In such case it is insisted that the order based on such opinion is conclusive, and (though Int. Com. Comm. *v.* Union Pacific R. R., 22 U. S., 541, 547, was to the contrary) could not be set aside, even if the finding was wholly without substantial evidence in support of it.

"1: But the statute gave the right to a full hearing, and that conferred the privilege of introducing testimony and at the same time imposed the duty of deciding in accordance with the facts proved. A finding without evidence is arbitrary and baseless. And if the Government's contention is correct it would mean that the commission had a power possessed by no other officer, administrative body, or tribunal under our Government. It would mean that where the rights depended upon facts the

commission could disregard all rules of evidence and capriciously make findings by administrative fiat. Such authority, however, beneficently exercised in one case, could be injuriously exerted in another, is inconsistent with rational justice, and comes under the Constitution's condemnation of all arbitrary exercise of power.

"In the comparatively few cases in which such questions have arisen it has been distinctly recognized that administrative orders, quasi-judicial in character, are void if a hearing was denied; if that granted was inadequate or manifestly unfair; if the finding was contrary to the 'indisputable character of the evidence' (Tang Tun *v.* Edsell, 223 U. S., 673, 681; Chin Yoh *v.* United States, 208 U. S., 8, 13; Low Wah Suey *v.* Backus, 225 U. S., 460, 468; Zakonaite *v.* Wolf, 226 U. S., 272); or if the facts found do not as a matter of law support the order made (United States *v.* B. & O. S. W. R. R., 226 U. S., 14; Cf. Atlantic C. L. *v.* North Carolina Corp. Com., 206 U. S., 1, 20; Wisconsin, M. & P. R. Co. *v.* Jacobson, 179 U. S., 287, 301; Oregon Railroad *v.* Fairchild, 224 U. S., 510; I. C. C. *v.* Illinois Central, 215 U. S., 452, 470; Southern Pacific Co. *v.* Interstate Com. Comm., 219 U. S., 433; Muser *v.* Magone, 155 U. S., 240, 247).

"2. The Government's claim is not only opposed to the ruling in I. C. C. *v.* Union Pacific (222 U. S., 541, 547) and the cases there cited, but is contrary to the terms of the act to regulate commerce, which in its present form, provides (25 Stat., 861, sec. 17) for methods of procedure before the commission that "conduce to justice." The statute, instead of making its orders conclusive against a direct attack, expressly declares that 'they may be suspended or set aside by a court of competent jurisdiction.' (36 Stat., 539, 15.) Of course that can only be done in cases presenting a justiciable question. But whether the order deprives the carrier of a constitutional or statutory right, whether the hearing was adequate and fair, or whether for any reason the order is contrary to law, are all matters within the scope of judicial power.

"3. Under the statute the carrier retains the primary right to make rates, but if after hearing they are shown to be unreasonable the commission may set them aside and require the substitution of just for unjust charges. The commission's right to act depends upon the existence of this fact, and if there was no evidence to show that the rates were unreasonable there was no jurisdiction to make the order. (Int. Com. Comm. *v.* Northern Pacific Ry., 216 U. S., 538, 544.) In a case like the present the courts will not review the commission's conclusions of fact (Int. Com. Comm. *v.* Delaware, etc., Ry., 220 U. S., 235, 251) by passing upon the credibility of witnesses or conflicts in the testimony. But the legal effect of evidence is a question of law. A finding without evidence is beyond the power of the commission. An order based thereon is contrary to law and must, in the language of the statute, 'be set aside by a court of competent jurisdiction.'"

Interstate Commerce Commission *v.* Union Pacific R. R. Co. (1912), 222 U. S., 541, 547, 548:

"There has been no attempt to make an exhaustive statement of the principle involved, but in cases thus far decided it has been settled that the orders of the commission are final unless (1) beyond the power which it could constitutionally exercise; or (2) beyond its statutory power; or (3) based upon a mistake of law. But questions of fact may be involved in the determination of questions of law, so that an order, regular on its face, may be set aside if it appears that (4) the rate is so low as to be confiscatory and in violation of the constitutional prohibition against taking property without due process of law; or (5) if the commission acted so arbitrarily and unjustly as to fix rates contrary to evidence, or without evidence to support it; or (6) if the authority therein involved has been exercised in such an unreasonable manner as to cause it to be within the elementary rule that the substance, and not the shadow, determines the validity of the exercise of the power. (Int. Com. Com. *v.* Ill. Cent., 215 U. S., 452, 470; Southern Pacific *v.* Int. Com. Com., 219 U. S., 433; Int. Com. Com. *v.* Northern Pacific, 216 U. S., 538, 544; Int. Com. Com. *v.* Alabama Midland Ry. Co., 168 U. S., 144, 174.)

"In determining these mixed questions of law and fact, the court confines itself to the ultimate question as to whether the commission acted within its power. It will not consider the wisdom or expediency of the order, or whether, on like testimony, it would have made a similar ruling. 'The findings of the commission are made by law prima facie true, and this court has ascribed to them the strength due to the judgments of a tribunal appointed by law and informed by experience.' (Ill. Cent. *v.* I. C. C., 206 U. S., 441.) Its conclusion, of course, is subject to review but, when supported by evidence, is accepted as final; not that its decision, involving as it does so many and such vast public interest, can be supported by a mere scintilla of proof, but the courts will not examine the facts further than to determine whether there was substantial evidence to sustain the order."

Oregon Railroad and Navigation Co. *v.* Fairchild (1912), 224 U. S., 510, 528:

"If, then, the defendant had notice and was given the right to show that the order asked for, if granted, would be unreasonable, it has not in this case been deprived of the right to a hearing. That being so, it leaves for consideration the contention tha as a matter of law the order, on the facts proved, was so unreasonable as to amount to a taking of property without due process of law. This necessitates an examination of the evidence not for the purpose of passing on conflicts in the testimony or of deciding upon pure questions of fact but, as said in Kansas City Railway Co. *v.* Albers Commission Co. (223 U. S., 573, 591), from an inspection of the 'entire record, including the evidence, if properly incorporated therein, to determine whether what purports to be a finding upon questions of fact is so involved with and dependent upon such questions of law as to be in substance and effect a decision of the latter.' (Cedar Rapids Gas Light Co. *v.* Cedar Rapids, 223 U. S., 655; Graham *v.* Gill, 223 U. S., 643.) Here the question presented is whether as a matter of law the facts proved show the existence of such a public necessity as authorized a taking of property."

Interstate Commerce Commission *v.* Northern Pacific Railway Co. (1910), 216 U. S., 538, 543, 544:

"The authority of the commission to establish through routes and joint rates is conditioned by the proviso that 'no reasonable or satisfactory through route exists.' (Act of June 29, 1906, c. 3591, sec. 4, 34 Stat., 584, 589.) It is urged that this condition is addressed only to the opinion of the commission and can not be reexamined by the courts as a jurisdictional fact. The difficulty of distinguishing between a rule of law for the guidance of a court and a limit set to its power is sometimes considerable. Words that might seem to concern jurisdiction may be read as simply imposing a rule of decision, and often will be read in that way when dealing with a court of general powers. (Fauntleroy *v.* Lum, 210 U. S., 230, 235.) But even in such a case there may be a difference of opinion (ibid, 245), and when we are dealing with an administrative order that seriously affects property rights, and does so by way rather of fiat than of adjudication, there seems to be no reason for not taking the proviso of the statute in its natural sense. (See Interstate Commerce Commission *v.* Illinois Central R. R. Co., 215, U. S., 452, 470.)

"We are of opinion then that the commission had no power to make the order if a reasonable and satisfactory through route already existed, and that the existence of such a route may be inquired into by the courts. How far the courts could go into that inquiry we need not now decide. No doubt in complex and delicate cases great weight at least would be attached to the judgment of the commission. But in the present instance there is no room for difference as to the facts, and the majority of the commission plainly could not and would not have made the declaration in their order that there was no such through route, but for a view of the law upon which this court must pass."

Interstate Commerce Commission *v.* Illinois Central R. R. Co. (1910), 215 U. S., 452, 470:

"Beyond controversy, in determining whether an order of the commission shall be suspended or set aside, we must consider, (*a*) all relevant questions of constitutional power or rights; (*b*) all pertinent questions as to whether the administrative order is within the scope of the delegated authority under which it purports to have been made; and (*c*) a proposition which we state independently, although in its essence it may be contained in the previous one, viz, whether, even although the order be in form within the delegated power, nevertheless it must be treated as not embraced therein, because the exertion of authority which is questioned has been manifested in such an unreasonable manner as to cause it, in truth, to be within the elementary rule that the substance and not the shadow determines the validity of the exercise of the power. (Postal Telegraph Cable Co. *v.* Adams, 155 U. S., 688, 698.) Plain as it is that the powers just stated are of the essence of judicial authority, and which, therefore, may not be curtailed, and whose discharge may not be by us in a proper case avoided, it is equally plain that such perennial powers lend no support whatever to the proposition that we may, under the guise of exerting judicial power, usurp merely administrative functions by setting aside a lawful administrative order upon our conception as to whether the administrative power has been wisely exercised.

"Power to make the order and not the mere expediency or wisdom of having made it, is the question."

Southern Pacific Co. *v.* Interstate Commerce Commission (1911), 219 U. S., 433, 442, 443:

"* * * the proposition relied upon to secure reversal is that the court below should have set aside the order of the commission because that order was in excess of the power conferred upon the commission, and this, it is insisted, is to be determined by substance and not mere form. In other words, the contention is that although the

order made by the commission may have been couched in a form which would cause it, superficially considered, to appear to be but the exercise of an authority to correct an unreasonable rate, yet if it plainly results from the record that the order of the commission was not the exercise of such an authority, but was based upon the assumption by that body of the possession of a power not conferred by law the mere form given by the commission to its action does not relieve the courts from the duty of reviewing and correcting an abuse of power. Applying these propositions, the insistence is that both in form and in substance the order of the commission is void, because it manifests that the body did not merely exert the power conferred by law to correct an unjust and unreasonable rate, but that it made the order which is complained of upon the theory that the power was possessed to set aside a just and reasonable rate lawfully fixed by a railroad whenever the commission deemed that it would be equitable to shippers in a particular district to put in force a reduced rate. That is to say, the contention is that the order entered by the commission shows on its face that that body assumed that it had power not merely to prevent the charging of unjust and unreasonable rates, but also to regulate and control the general policy of the owners of railroads as to fixing rates, and consequently that there was authority to substitute for a just and reasonable rate one which in and of itself in a legal sense might be unjust and unreasonable, if the commission was satisfied that it was a wise policy to do so or because a railroad has so conducted itself as to be estopped in the future from being entitled to receive a just and reasonable compensation for the service rendered."

Federal Trade Commission *v.* Gratz (1920), 250 U. S., 421:

"The words 'unfair method of competition' are not defined by the statute, and their exact meaning is in dispute. It is for the courts ,not the commission, ultimately to determined as matter of law what they include."

It is also settled by the Supreme Court that the findings of fact must, as a matter of law, sustain the order (Louisville & Nashville R. R. Co. *v.* United States, 238 U. S., 11; Great Northern Railway *v.* Minnesota, 238 U. S., 340), and that the order is void if there is no evidence to support the order (Florida East Coast Line *v.* United States, 234 U. S., 167), or if the commission assumes powers not granted it (Southern Pacific Co. *v.* Interstate Commerce Commission, 219 U. S., 433), or if the discrimination found by the commission is not as a matter of law unjust (Interstate Commerce Commission *v.* Diffenbaugh, 222 U. S., 42; Louisville & Nashville R. R. Co. *v.* United States, 242 U. S., 60); and the Federal courts are always open to a person complaining that his property has been taken without due process (Louisville & Nashville R. R. *v.* Garnett, 231 U. S., 311; Home Tel. Co. *v.* Los Angeles, 211 U. S., 278).

On the other hand, the whole purpose of enforcement of law through an administrative body is to afford an agency better equipped with the time, accumulated experience, and peculiar technical knowledge necessary to determine violations of a particular phase of the law, rather than to provide a mere instrument to collect evidence for the courts. For this reason the court's judgment upon the administrative determination will not in every case be substituted for that of the administrative body, but only when the determination is void as a matter of law, or is arbitrary or unfair in view of the facts upon which it is based.

United States *v.* Louisville & Nashville R. R. Co. (1914), 235 U. S., 314, 320, 321.

"The Commerce Court, finding that there was no conflicting or disputed evidence concerning the origin and character of the reshipping privilege, concluded that whether such privilege was an undue preference was not a matter of fact, but a question of law, upon which it was its duty to reach an independent conclusion. The court, therefore, among other considerations because the privilege was of long standing and was justified by water at Nashville, declared it to be not unlawful and not preferential. A peremptory injunction was allowed restraining the enforcement of the order of the commission. And the correctness of this action is the question here for decision.

"In view of the doctrine announced in Interstate Com. Com. *v.* Illinois Cent. R. R. (215 U. S., 452), Interstate Com. Com. *v.* Delaware, L. & W. R. Co. (220 U. S., 235), Interstate Com. Com. *v.* Louisville & Nashville R. R. (227 U. S., 88), it plainly results that the court below, in substituting its judgment as to the existence of preference for that of the commission on the ground that where there was no dispute as to the facts it had a right to do so, obviously exerted an authority not conferred upon it by the statute. It is not disputable that from the beginning the very purpose for which the commission was created was to bring into existence a body which from its peculiar character would be most fitted to primarily decide whether from the facts, disputed or undisputed, in a given case preference or discrimination existed. (East Tenn., etc., Ry. Co. *v.* Interstate Com. Com., 181 U. S., 1, 23029.) And the amendments by which it came to pass that the findings of the commission were made not merely prima facie but conclusively correct in case of judicial review, except to the extent pointed out in the Illinois Central and other cases, supra, show the progres-

sive evolution of the legislative purpose and the inevitable conflict which exists between giving that purpose effect and upholding the view of the statute taken by the court below. It can not be otherwise, since if the view of the statute upheld below be sustained the commission would become but a mere instrument for the purpose of taking testimony to be submitted to the courts for their ultimate action."

Pennsylvania Co. *v.* United States (1915), 236 U. S., 351, 361:

"This section forbids any undue or unreasonable preference or advantage in favor of any person, company, firm, corporation, or locality; what is such undue or unreasonable preference or advantage is a question not of law but of fact. (Texas & Pacific Ry. *v.* Interstate Commerce Commission, 162 U. S., 197, 219; Interstate Commerce Commission *v.* Alabama Midland Railway, 168 U. S., 144, 170.) If the order made by the commission does not contravene any constitutional limitation and is within the constitutional and statutory authority of that body, and not unsupported by testimony, it can not be set aside by the courts, as it is only the exercise of an authority which the law vests in the commission (Interstate Commerce Commission *v.* Delaware, Lackawanna & Western R. R., 220 U. S., 235, 251; Los Angeles Switching case, 234 U. S., 294, 311; Houston & Texas Ry. *v.* United States, 234 U. S., 342, 359)."

Skinner & Eddy Corporation *v.* United States (1919), 249 U. S., 557, 562, 563.

"This contention proceeds apparently upon a misapprehension of the plaintiff's position. If the plaintiff had sought relief against a rate or practice alleged to be unjust because unreasonably high or discriminatory, the remedy must have been sought primarily by proceeding before the commission (Loomis *v.* Lehigh Valley R. R. Co., 240 U. S., 43, 50; Texas & Pacific Ry. Co. *v.* American Tie & Timber Co., 234 U. S., 138, 416; Minnesota Rate cases, 230 U. S., 352, 419; Robinson *v.* Baltimore & Ohio R. R. Co., 222 U. S., 506; Baltimore & Ohio R. R. Co. *v.* Pitcairn Coal Co., 215 U. S., 481) and the finding thereon would have been conclusive, unless there was lack of substantial evidence, some irregularity in the proceedings, or some error in the application of rules of law (Manufacturers Ry. Co. *v.* United States, 246 U. S., 457, 482; Pennsylvania Co. *v.* United States, 236 U. S., 251, 361; Los Angeles Switching case, 234 U. S., 294, 311; Kansas City Southern Ry. Co. *v.* United States, 231 U. S., 423, 440; Procter & Gamble Co. *v.* United States, 225 U. S., 282, 297–298; Interstate Commerce Commission *v.* Union Pacific R. R. Co., 222 U. S., 541). But the plaintiff does not contend that 75 cents is an unreasonably high rate or that it is discriminatory or that there was mere error in the action of the commission. The contention is that the commission has exceeded its statutory powers; and that, hence, the order is void. In such a case the courts have jurisdiction of suits to enjoin the enforcement of an order, even if the plaintiff has not attempted to secure redress in a proceeding before the commission. (Interstate Commerce Commission *v.* Diffenbaugh, 222 U. S., 42, 49; Louisiana & Pacific Ry. Co. *v.* United States, 209 Fed. Rep., 244, 251; Atlantic Coast Line R. R. Co. *v.* Interstate Commerce Commission, 194 Fed. Rep., 449, 451.) The Sacramento case, supra, was a case of this character. Compare Interstate Commerce Commission *v.* Louisville & Nashville R. R. Co. (227 U. S., 88, 92); Southern Pacific Co. *v.* Interstate Commerce Commission (219 U. S., 433)."

Manufacturers Railway Co. *v.* United States (1918), 246 U. S., 457, 481, 482.

"Whether a preference or advantage or discrimination is undue or unreasonable or unjust is one of those questions of fact that have been confided by Congress to the judgment and discretion of the commission (Interstate Commerce Commission *v.* Alabama Midland Ry. Co., 168 U. S., 144, 170), and upon which its decisions, made the basis of administrative orders operating in futuro, are not to be disturbed by the courts, except on a showing that they are unsupported by evidence, were made without a hearing, exceed constitutional limits, or for some other reason amount to an abuse of power. This results from the provisions of sections 15 and 16 of the commerce act as amended in 1906 and 1910 (34 Stat., 589–591, c. 3591; 36 Stat., 551–554, c. 309), expounded in familiar decisions. (Interstate Commerce Commission *v.* Illinois Central R. R. Co., 215 U. S., 452, 469–470; Interstate Commerce Commission *v.* Union Pacific R. R. Co., 22 U. S., 541, 547; Procter & Gamble Co. *v.* United States, 225 U. S., 282, 297–298; Interstate Commerce Commission *v.* Louisville & Nashville R. R. Co., 227 U. S., 88, 91.)

"In the present case the negative finding of the commission upon the question of undue discrimination was based upon a consideration of the different conditions of location, ownership, and operation as between the railway and the terminal. (28 I. C. C., 104, 105; 32 I. C. C., 102.) The conclusions were reached after full hearing, are not without support in the evidence, and we are unable to say that they show an abuse of discretion. It may be conceded that the evidence would have warranted a different finding; indeed, the first report of the commission was to the contrary; but to annul the commission's order on this ground would be to substitute the judgment

of a court for the judgment of the commission upon a matter purely administrative, and this can not be done. (United States *v.* Louisville & Nashville R. R. Co., 235 U. S., 314, 320; Pennsylvania Co. *v.* United States, 236 U. S., 351, 361.) The common use of the St. Louis Terminal by the 14 trunk lines under a single arrangement as to absorption of the terminal charges does not, as matter of law, entitle the railway, which has no trunk line and does terminal switching alone, to precisely the same treatment. (United States *v.* St. Louis Terminal, 224 U. S., 383, 405, 406; Louisville & Nashville R. R. Co. *v.* United States, 242 U. S., 60.)"

CONSTITUTIONALITY OF REGULATION OF STOCKYARDS.

It may be argued that the attempt to regulate transactions in stockyards is unconstitutional on the ground that these transactions take place after the live stock has ceased to move in interstate commerce, and reliance may be placed upon the case of Hopkins *v.* United States (171 U. S., 578), in which it was held that the Sherman Antitrust Act did not include the acts of a live-stock exchange composed of commission men doing business at a stockyard and selling on commission consignments of cattle from another State on the ground that this business was not interstate commerce. A careful examination of the opinion, however, shows that the court was of the opinion that the acts of the defendants had only an incidental effect on interstate commerce in the absence of proof that the charges for the services were exorbitant, and the court clearly intimated that Congress would have authority to prohibit unreasonable charges and hence unfair practices. Furthermore, the force of the decision, even if adverse, is greatly lessened by subsequent decisions of the court. In Field *v.* Barber Asphalt Co. (194 U. S., 623) it seems apparent that the Hopkins case is construed by the Supreme Court to hold that for the purposes only of the antitrust act commission merchants are not engaged in interstate commerce, the case being cited in support of the proposition "that the antitrust act is not intended to affect contracts which have a remote and indirect bearing on commerce between the States." In Loewe *v.* Lawlor (208 U. S., 297) the court says that it does not "pause to comment on cases such as" the Hopkins case "in which the facts show that the purpose of the agreement was not to obstruct or restrain interstate commerce. The object and intention of the combination determines its legality."

In Standard Oil Co. *v.* United States (221 U. S., 66), the Hopkins case is cited as showing that the rule of reason has always been applied by the Supreme Court. In Bacon *v.* Illinois (227 U. S., 516), which sustained a State tax on grain, although the grain in question had been removed in transit for inspecting and weighing, the court said "the question, it should be observed, is not with respect to the extent of the power of Congress to regulate interstate commerce, but whether a particular exercise of such power in view of its nature and operation must be deemed to be in conflict with this paramount authority." A clear intimation that, while the acts of commission merchants and others furnishing services at stockyards were not within the scope of the Sherman Antitrust Act, they are not necessarily beyond the regulatory power of Congress, is found in the recent case of United States *v.* Ferger (250 U. S., 199), which sustained an indictment for issuing a fraudulent bill of lading in interstate commerce. The court said, at page 203:

"* * * it is insisted that as there was and could be no commerce in a fraudulent and fictitious bill of lading, therefore the power of Congress to regulate commerce could not embrace such pretended bill. But this mistakenly assumes that the power of Congress is to be necessarily tested by the intrinsic existence of commerce in the particular subject dealt with, instead of by the relation of that subject to commerce and its effect upon it. We say mistakenly assumes, because we think it clear that if the proposition were sustained it would destroy the power of Congress to regulate, as obviously that power, if it is to exist, must include the authority to deal with obstruction to interstate commerce (In re Debs, 158 U. S., 564) and with a host of other acts which, because of their relation to and influence upon interstate commerce, come within the power of Congress to regulate, although they are not interstate commerce in and of themselves."

In Swift *v.* United States (196 U. S., 375), it is said that in the Hopkins case the question was left open as to what would have been the result if the combination had resulted in exorbitant charges. The case also lays down the important doctrine that: "When cattle are sent for sale from a place in one State, with the expectation that they will end their transit, after purchase, in another, and when in effect they do so, with only the interruption necessary to find a purchaser at the stockyards, and then this is a typical, constantly recurring course, the current thus existing is a current of commerce among the States, and the purchase of the cattle is a part and incident of such commerce."

The committee amendment makes it clear that Congress in treating this question is attempting to regulate evils which it has found to exist in respect to exorbitant charges and unreasonable practices on the stockyards, resulting in a direct burden upon interstate commerce, and that in the whole bill it is treating the entire slaughtering and meat-packing industry in all its ramifications as part of the "current of commerce" referred to in the Swift case. The committee amendment in its definitions in section 2 repeats the language of the Swift case and contains a declaration "articles normally in such current or commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act." This clearly expresses the intention of Congress that all devices, whether skillful manipulation of corporate organization, or the setting up of dummies, or otherwise, should not result in an evasion of the act. If this great industry, bearing so important a relation to the welfare of the Nation, and constituting so large a part of interstate commerce, can escape the power of Congress by such devices, the power granted by the Constitution to regulate interstate commerce means nothing, a conclusion which the committee can not bring itself to believe is true.

Need for Legislation.

In reference to the need for specific legislation to regulate and control the slaughtering and meat packing industry in such manner as to protect producers of live stock, independent of packers, and consumers from discrimination, abuse, and oppression by means of conspiracies, combinations, or other methods, the report of the Federal Trade Commission and the printed reports of the hearings before the committee, containing approximately 3,000 pages, clearly indicate its need.

The letter from the Federal Trade Commission to the President, transmitting its report one year ago states:

"On February 7, 1917, you directed the Federal Trade Commission to 'investigate and report facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs and the products or by-products arising from or in connection with their preparation and manufacture; to ascertain the facts bearing on alleged violations of the antitrust acts, and particularly upon the question whether there are manipulations, controls, trusts, combinations, conspiracies, or restraints of trade out of harmony with the law or the public interests,' to the end that 'proper remedies, legislative or administrative, may be applied' (p. 23).

"Answering directly your question as to whether or not there exists 'monopolies, controls, trusts, combinations, conspiracies, or restraints of trade out of harmony with the law and the public interest,' we have found conclusive evidence that warrants an unqualified affirmative (p. 23).

"It appears that five great packing concerns of the country—Swift, Armour, Morris, Cudahy, and Wilson—have attained such a dominant position that they control at will the market in which they buy their supplies, the market in which they sell their products, and hold the fortunes of their competitors in their hands (p. 24).

"The combination has not stopped at the most minute integration but has gone on into a stage of conglomeration, so that unrelated heterogeneous enterprises are brought under control (p. 24)."

The summary of the report of the Federal Trade Commission states:

"Five corporations—Armour & Co., Swift & Co., Morris & Co., Wilson & Co. (Inc.), and the Cudahy Packing Co.—hereafter referred to as the Big Five or the packers, together with their subsidiaries and affiliated companies, not only have a monopolistic control over the American meat industry, but have secured control, similar in purpose if not yet in extent, over the principal substitutes for meat, such as eggs, cheese, and vegetable-oil products, and are rapidly extending their power to cover fish and nearly every kind of foodstuff.

"In addition to these immense properties in the United States, the Armour, Swift, Morris, and Wilson interests, either separately or jointly, own or control more than half of the export-meat production of the Argentine, Brazil, and Uruguay, and have large investments in other surplus meat-producing countries, including Australia (p. 31).

"The monopolistic position of the Big Five is based not only upon the large proportion of the meat business which they handle, ranging from 61 to 86 per cent in the principal lines, but primarily upon their ownership, separately or jointly, of stockyards, car lines, cold-storage plants, branch houses, and the other essential facilities for the distribution of perishable foods.

"The control of these five great corporations, furthermore, rests in the hands of a small group of individuals, namely, J. Ogden Armour, the Swift brothers, the Morris

brothers, Thomas E. Wilson (acting under the veto of a small group of bankers), and the Cudahys (p. 31).

"The combination among the Big Five is not a casual agreement brought about by indirect and obscure methods, but a definite and positive conspiracy for the purpose of regulating purchases of live stock and controlling the price of meat, the terms of the conspiracy being found in certain documents which are in our possession (p. 32).

"The committee found, among other things, that there was collusion with regard to the fixing of prices and the division of territory and business. The conditions revealed by this investigation, it may be remarked, were in part responsible for the passage of the Sherman Antitrust Act on July 2, 1890.

"This investigation and the passage of the Sherman Act, however, did not long prevent the big packers from combining, for it was admitted by Henry Veeder, under oath, in 1912, that from May, 1893, until May, 1896, representatives of the leading packing companies, Armour & Co., Armour Packing Co., Cudahy Packing Co., G. H. Hammond Packing Co., East St. Louis Dressed Beef & Provision Co., Morris & Co., and Swift & Co., met regularly every Tuesday afternoon in a suite of rooms leased in the name of Henry Veeder (p. 46)."

On June 29, 1918, the Federal Trade Commission, in response to Senate resolution of June 10, 1918, transmitted a report (Doc. 248, 65th Cong., 2d sess.) containing facts, figures, data, and information then in possession of the commission relative to profiteering. On page 7 it shows that—

"Five meat packers—Armour, Swift, Morris, Wilson, and Cudahy—and their subsidiary and affiliated companies have monopolistic control of the meat industry and are reaching for like domination in other products. Their manipulations of the market embrace every device that is useful to them, without regard to law. Their reward, expressed in terms of profit, reveals that four of these concerns have pocketed in 1915, 1916, and 1917, $140,000,000. However delicate a definition is framed for 'profiteering,' these packers have preyed upon the people unconscionably. They are soon to come under further governmental regulation approved by Executive order."

(There is printed as follows the bill finally agreed to and favorably reported:)

On page 14 it states that—

"Of the astounding figure of $140,000,000, $121,000,000 represents excess over their prewar profit, and that the profit taken by Morris & Co. for the fiscal year ending November 1, 1917, is equal to 263.7 per cent on its $3,000,000 outstanding capital stock."

In reference to whether the antitrust laws are adequate to meet existing conditions, there is quoted from the hearings before this committee (pp. 2355, 2356) the following:

"The CHAIRMAN. Let me ask you one question as to legislation. Do you consider that the present antitrust laws are adequate to meet the situation outside of the decree?

"Attorney General PALMER. Well, Mr. Chairman. I have not got as much confidence in the Sherman antitrust law as I used to have. We do not seem to be able to bring cases which the Government believes are combinations within its terms, according to the judgment of the Supreme Court. Yet I accept that judgment as the final determination as to what the law is. I am still hopeful that under it most of the combinations in restraint of trade that the Government has attacked can be successfully enjoined or punished.

* * * * * * * *

"The CHAIRMAN. If it is possible to convict others, isn't is possible to make a law to convict the packers?

"Attorney General PALMER. I did not say business men had not gone to jail. I said that under the Sherman antitrust law no business man had been sent to jail. I think that is a correct statement. I think it is also a correct statement to say that not more than five or six persons have gone to jail under the Sherman antitrust law, and those for very minor sentences, and they were persons who were convicted under that law for acts while in restraint of trade or tending toward a monopoly, were acts we do not understand to be part of these business problems. Now, I made that reference simply to cite the history of the Sherman antitrust law; to show the chances the Government would take if it undertook to go on the criminal side of the courts to get a remedy in this case. I did not say it for the purpose of criticizing the Sherman antitrust law; that is not the fault of the law."

Meat Packer Bill.

67TH CONGRESS, 1ST SESSION. H. R.

IN THE HOUSE OF REPRESENTATIVES.

MAY —, 1921.

Mr. HAUGEN introduced the following bill; which was referred to the Committee on Agriculture and ordered to be printed.

A BILL

To regulate interstate and foreign commerce in live stock, live-stock products, dairy products, poultry, poultry products, and eggs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I.—DEFINITIONS.

This Act may be cited as the "Packers and Stockyards Act, 1921."

SEC. 2. (a) When used in this Act—

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture;

(3) The term "meat food products" means all products and by-products of the slaughtering and meat-packing industry—if edible;

(4) The term "live stock" means cattle, sheep, swine, horses, mules, or goats,—whether live or dead;

(5) The term "live-stock products" means all products and by-products (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from live stock; and

(6) The term "commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(b) For the purpose of this act (but not in any wise limiting the foregoing definition) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the live-stock and meat-packing industries, whereby live stock, meats, meat food products, live-stock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of live stock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

TITLE II.—PACKERS.

SEC. 201. When used in this act—

The term "packer" means any person engaged in the business (a) of buying live stock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of manufacturing or preparing live-stock products for sale or shipment in commerce, or (d) of marketing

meats, meat food products, live-stock products, dairy products, poultry, poultry products, or eggs, in commerce; but no person engaged in such business of manufacturing or preparing live-stock products or in such marketing business shall be considered a packer unless—

(1) Such person is also engaged in any business referred to in clause (a) or (b) above, or unless

(2) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, any interest in any business referred to in clause (a) or (b) above, or unless

(3) Any interest in such business of manufacturing or preparing live-stock products, or in such marketing business is owned or controlled, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, by any person engaged in any business referred to in clause (a) or (b) above, or unless

(4) Any person or persons jointly or severally, directly or indirectly, through stock ownership or control or otherwise, by themselves or through their agents, servants, or employees, own or control in the aggregate 20 per centum or more of the voting power or control in such business of manufacturing or preparing live-stock products, or in such marketing business and also 20 per centum or more of such power or control in any business referred to in clause (a) or (b) above.

SEC. 202. It shall be unlawful for any packer to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce; or

(b) Make or give, in commerce, any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject, in commerce, any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(c) Sell or otherwise transfer to or for any other packer, or buy or otherwise receive from or for any other packer, any article for the purpose or with the effect of apportioning the supply in commerce between any such packers, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly in commerce; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business in commerce, or (2) to apportion purchases or sales of any article in commerce, or (3) to manipulate or control prices in commerce; or

(g) Conspire, combine, agree or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d), or (e).

SEC. 203. (a) Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this title, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of this title covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until a transcript of the record in such hearing has been filed in a circuit court of appeals of the United States, as provided in section 204, the Secretary at any time

upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

SEC. 204. (a) An order made under section 203 shall be final and conclusive unless within thirty days after service the packer appeals to the circuit court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order. If before such transcript is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) At any time after such transcript is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) The evidence so taken or admitted, duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) The court may affirm, modify, or set aside the order of the Secretary.

(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) If the circuit court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) The circuit court of appeals shall have exclusive jurisdiction to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 240 of the Judicial Code, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the circuit court of appeals, in so far as such decree operates as an injunction, unless so ordered by the Supreme Court.

(i) For the purposes of this title the term "circuit court of appeals," in case the principal place of business of the packer is in the District of Columbia, means the Court of Appeals of the District of Columbia.

SEC. 205. Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 203, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the circuit court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the circuit court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 204:

Shall on conviction be fined not less than $500 nor more than $10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

TITLE III.—STOCKYARDS.

SEC. 301. When used in this act—

(a) The term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard;

(b) The term "stockyard services" means services or facilities furnished at a stockyard in connection with the receiving, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of live stock;

(c) The term "market agency" means any person engaged in the business of (1) buying or selling in commerce live stock at a stockyard on a commission basis or (2) furnishing stockyard services; and

(d) The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce live stock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser.

SEC. 302. (a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling live stock, exclusive of runs, alleys, or passage ways, is less than 20,000 square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

SEC. 303. After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the Secretary under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged and the kinds of stockyards services, if any, which he furnishes at such stockyard. Whoever violates the provisions of this section shall be liable to a penalty of not more than $500 for each such offense and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

SEC. 304. It shall be the duty of every stockyard owner and market agency to furnish upon reasonable request, without discrimination, reasonable stockyard services at such stockyard.

SEC. 305. All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful.

SEC. 306. (a) Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) After the expiration of the sixty days referred to in subdivision (a) no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their live stock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than $500 for each such offense, and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than $1,000, or imprisoned not more than one year, or both.

SEC. 307. It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

SEC. 308. (a) If any stockyard owner, market agency, or dealer, violates any of the provisions of section 304, 305, 306, or 307, or of any order of the Secretary made under this title, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 309, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies.

SEC. 309. (a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the "defendant") in violation of the provisions of sections 304, 305, 306, or 307, or of an order of the Secretary made under this title, may, at any time within one year after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint,

it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) The Secretary, at the request of the live-stock commissioner, Board of Agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subdivision (a).

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this title, or concerning which any question may arise under any of the provisions of this title, or relating to the enforcement of any of the provisions of this title. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respect like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

SEC. 310. Whenever after full hearing upon a complaint made as provided in section 309, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be; and (3) shall conform to and observe the regulation or pactice so prescribed.

SEC. 311. Whenever in any investigation under the provisions of this title, or in any investigation instituted by petition of the stockyard owner or market agency concerned, which petition is hereby authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner or market agency, for or in connection with the receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of live stock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in live stock on the one hand and interstate or foreign commerce in live stock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in live stock, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners or market agencies parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

SEC. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce at a stockyard, of live stock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist.

SEC. 313. Except as otherwise provided in this Act, all orders of the Secretary under this title, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

SEC. 314. (a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of section 310, 311, or 312 shall forfeit to the United States the sum of $500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various district attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

SEC. 315. If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

SEC. 316. For the purposes of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title.

TITLE IV.—GENERAL PROVISIONS.

SEC. 401. Every packer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years or both.

SEC. 402. For the purpose of securing effective enforcement of the provisions of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this Act and to any person subject to the provisions of this Act, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States.

SEC. 403. When construing and enforcing the provisions of this Act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

SEC. 404. The Secretary may report any violation of this Act to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

SEC. 405. Nothing contained in this Act, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled "An Act to promote export trade, and for other purposes," approved April 10, 1918, or sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," as amended by the Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this Act becomes effective.

SEC. 406. (a) Nothing in this Act shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such Commission.

(b) On and after the enactment of this Act, and so long as it remains in effect the Federal Trade Commission shall have no power or jurisdiction so far as relating to any matter which by this Act is made subject to the jurisdiction of the Secretary, except in cases in which, before the enactment of this Act, complaint has been served under section 5 of the Act entitled "An Act to create a Federal Trade Commission, to define its power and duties, and for other purposes," approved September 26, 1914, or under section 11 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

SEC. 407. The Secretary may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this Act in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

SEC. 408. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

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